



Organisation for Economic Co-operation and Development
Organisation de Coopération et de Développement Economiques

**Directorate for Financial, Fiscal and Enterprise Affairs
Centre on Tax Policy and Administration**

**Fiscal Design Across Levels of Government
Year 2000 Surveys**

Country Report: Poland

FINAL

17th May, 2001

TABLE OF CONTENTS

GENERAL INTRODUCTION TO THE SURVEY	4
1. EXECUTIVE SUMMARY	5
1.1-2 Main features of local finance and intergovernmental relations. Major empirical findings	5
1.3-4 Major problems in the fiscal design. Status on policy reform considerations	7
2. THE TECHNICAL FRAMEWORK - CLASSIFICATION OF LEVELS OF GOVERNMENT	8
AND ECONOMIC TRANSACTIONS	8
3. GOVERNMENT FINANCE STATISTICS ON SUB-NATIONAL GOVERNMENTS	13
3.1 Sub-national revenue.....	13
3.1.1 Tax revenue	16
3.1.2 Non-tax revenue.....	20
3.1.3 Inter-government financial relations – Grants	20
3.2 Sub-national expenditure.....	22
4. EVALUATIONS ON SUB-NATIONAL AUTONOMY AND NATIONAL FISCAL	27
CONSTRAINTS.....	27
4.1 General presentations of the sub-national government system. Summary on government	27
finance reform policies.....	27
4.1.1 General public services.....	27
4.1.2 Public order and safety	27
4.1.3 Education	28
4.1.4 Health.....	28
4.1.5 Social security and welfare.....	28
4.1.6 Housing and community amenities.....	29
4.1.7 Recreational, cultural and religious affairs	29
4.1.8 Economic affairs.....	29
4.1.9 Transportation and communication	29
4.1.10 Reforms	30
4.2 Local discretion – tax administration and relation to central government	31
4.3 National regulation of the framework for non-tax revenues	38
4.4 National policies on design of grants systems.....	40
4.5 National control on borrowing	46
4.6 Local discretion – expenditure	50
4.7 General budget co-operation with central government	56

List of Tables

Table 2.1	Gross Domestic Product, 1997-99. Market prices. National currency	11
Table 2.2	Municipalities by size	12
Table 3.1	Total revenue by level of government, 1997, 1998, and 1999 (in millions of zlotys).....	15
Table 3.2	Classification of taxes of sub-central governments. Local Government, 1997-99	17
Table 3.3	Classification of taxes of sub-central governments. Regional Government, 1997-99	19
Table 3.4	The profile of central grants to local governments, 1997, 1998, and 1999	21
Table 3.5	The profile of central grants to regional governments, 1997, 1998, and 1999	21
Table 3.6	Current expenditure by function and level of government, 1997, 1998, and 1999	23
Table 3.7	Expenditure indicators by the three most important policy sectors. Local Government.	24
Table 3.8	Expenditure indicators by the three most important policy sectors. Regional Government	25
Table 4.1	Expenditure assignment - actual status of the legal framework	26
Table 4.1.1	Authorities engaged in the assessment of tax liabilities	38
Table 4.2	Indebtedness of municipalities: local net debt, 1997, 1998 and 1999 (in millions of zlotys)...	47
Table 4.2.1	Loans and bank loans taken by gminas between 1996-1998 (in millions of zlotys)	49
Table 4.2.2	Loans and bank loans taken out by units of local self-government.....	49
	in 1999 (in millions of zlotys)	

GENERAL INTRODUCTION TO THE SURVEY

In accordance with decisions made by the “Fiscal Decentralisation Initiative for Central and Eastern Europe” (FDI), the OECD has initiated surveys on fiscal decentralisation for the purpose of providing international comparisons on the design of fiscal systems across levels of government.

FDI is a joint initiative of the OECD, the World Bank, the Council of Europe, the Open Society Institute, UNDP, USAID and OECD Member countries to assist transition economies in Central and Eastern Europe in carrying out intergovernmental reforms. The main objectives of the Initiative are: to encourage local democracies to improve the capacity of local governments to plan and administer expenditures and raise revenues; and to support local governments in their efforts to become more responsive and accountable to their constituencies.

Thereby the survey has been written in response to a questionnaire designed by the OECD and follows the structure outlined in the questionnaire.

The survey specifically indicates the state of the following fiscal decentralisation issues:

- The design of fiscal systems.
- The profile of sub-national revenues.
- The profile of sub-national expenditures.
- The match between locally-managed expenditures and the corresponding revenues.
- The institutional arrangements for ensuring fiscal discipline and budgetary constraints.
- The design of intergovernmental fiscal relations.

The surveys in 2000 took place in six countries in Central and Eastern Europe: three OECD Member countries - the Czech Republic, Hungary and Poland - and the three Baltic states - Estonia, Latvia and Lithuania.

The survey was carried out between April 2000 and January 2001.

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1. EXECUTIVE SUMMARY

1.1-2 Main features of local finance and intergovernmental relations. Major empirical findings

The last stage of local government reform in Poland has begun in 1999, when were established two new tiers of local government - poviats and voivodships. These new tiers were fitted with new financial sources - especially special grants and general subsidy - and also took over new tasks from state government. Much more independent than poviats and voivodships are gminas - the lowest level of subnational government, which have existed since 1990. The gminas have functioned in stable financial environment - significant part of its revenues consists of tax revenues.

Units of subnational government receive revenues from three basic sources:

1. From taxes:
 - Local taxes,
 - Share of state taxes;
2. From non-tax revenues, and
3. From grants:
 - General subsidy,
 - Special purpose grants.

After the reform of subnational government, the most important source of revenues has become grants. In 1999 it was over 51 per cent of total local revenues. In comparison in 1998 the share of grants in local revenues was 35.8 per cent and in 1997 it was 34.3 per cent. Such significant growth was influenced from the fact, that new tiers of subnational government (poviats and voivodships) received grants (general subsidy and specific grants) as main sources of revenues. It should be pointed out that existing system subsidising units of local governments are a denial of the self-government idea and do not permit making a decision in an independent and flexible way. The local governments are dependent on government decisions on granting subsidies and their amounts. It is very important in the case of grants for investment, where unforeseen delay in submitting the required money has a negative impact on the effective use of financial resources, completing on time, etc. With respect to these problems, grants should gradually be replaced by increasing own revenues. A parallel decision is required to reduce the quantity of commissioned tasks by state administration and, at the same time, increase own tasks together with accurate financial resources to realise them properly.

On the other hand, the share of tax revenues in total revenues fell from 37.6 per cent in 1997 to 24.5 per cent in 1999. The budgets of gminas remain the only budgets that are funded from local taxes and charges that constitute, in their entirety, the own revenue of gminas. The revenues of poviats and self-governing voivodships do not come from any independent tax sources other than a share in state taxes – personal income tax and corporate income tax. During the years 1997 – 1999 the growth of tax revenues of

subnational government was insignificant and in 1999 with comparison to 1997 it grew only by 8 per cent. At this time units of local authorities did not received any additional source of tax revenues. That 8 per cent growth was mainly a result from an increase in revenues from real estate tax, which grew during this period by 1503 mln of zlotys – it was equal to 34.0 per cent.

Revenues from taxes on income, profits and capital gains did not change significantly during years 1997 – 1999. The growth of revenues from this source was equal to 5.4 per cent. Unfortunately local authorities have little influence on the development of their revenues from central tax sharing (the role of sharing in direct taxes is primarily fiscal – the provision of funds to the eligible unit of self-government).

The statutory tax authority of subnational government is quite limited and brought down to non-uniform functional powers. In most cases, it allows lowering upper rates of local taxes, to the extent laid down in statutes. The upper tax rates are determined and updated on an annual basis by the Finance Minister within the framework of the general tax policy of the state.

Another instrument of tax authority used by the units of local self-government is the granting of relief, deferment and remission of taxes that make up the gmina's revenues and are directly paid to the gmina's account. The same power can be exercised in the form of a waiver of the collection of such taxes (relevant decisions may solely refer to individual applications filed by taxpayers).

The responsibilities of the units of local self-government may be divided into duties being their direct responsibility, and responsibilities delegated by the central government administration.

Duties are being delegated to units of local government by the central government administration under a number of statutes regulating various areas of public activity. They may also be implemented on the basis of agreements made between unit of local government and a body of the central government administration. Such duties are financed from funds transferred to local government especially for that purpose by the relevant body of central government administration.

Funds allocated to the performance of own duties of subnational governments come from own revenues, i.e. from taxes, charges, receipts from assets and the general subsidy. On the other hand, delegated duties are financed from specific grants transferred by the government administration.

Public expenditure specified in the self-government's budget resolution applying to particular year cannot be exceeded as it is capped.

During the years 1997 – 1999, almost all areas of expenditure grew. The relation of total local expenditures to GDP was higher over 2 percentage points in 1999 than in 1997. The most important tasks realised by subnational government embrace: education, social security and welfare, and housing and community affairs. The expenditure on these three sectors covered almost 67.6 per cent of total local expenditures in 1999.

There exist, in Polish law, different restrictions in the area of borrowing, bond issue and provision of guarantees. These restrictions are imposed on all local authorities. The total amount repayable during a relevant budget year cannot exceed 15% of the revenue projection for a given budget year of that local authority. Also, the total amount of debts at the end of the budget year cannot be more than 60% of the aggregate revenue of that unit during a relevant budget year.

The units of local government may also incur loans and issue securities in order to cover the in-year shortage in the budget of the units of local government. Such debts are repayable or redeemable within the same year as the year of incurring or issuing them. This is due to the irregular inflow of revenue from taxes and other revenue to the budget accounts of the units of local self-government, and the necessity of incurring current expenditure on a regular uninterrupted basis.

In addition to that the units of local self-government may also borrow at certain banks and financial institutions on preferential terms.

It should be noted that units of local government are independent entities, acting under their own responsibility. Local authorities must cover any budget deficit themselves. On the other hand, in case of temporary financial difficulties, loans for financing deficit may be extended from the state budget in the course of rehabilitation proceedings. The conditions of granting such loans (interest rates, repayment dates) are laid down in the loan agreement.

The central authorities influence neither level of local revenue nor expenditure. Even the amount of revenue transferred from the state budget, i.e. subsidies and specific grants, depends on objective criteria laid down in the Acts and, hence, the central authorities are unable to interfere in the amount of this revenue. Neither are these authorities able to exert influence on the amounts spent from local budgets and the sole supervisory criteria is the correctness of implementation of duties assigned to individual levels of local government.

The regional clearing chamber fulfils the external control of subnational governments. Regional clearing chamber also fulfils information and training functions, providing the council with professional opinions on the draft budget, information submitted by the gmina council (powiat, voivodship) and concerning the implementation and execution of the budget, and also findings of comprehensive inspections of the financial management of a local government.

1.3-4 Major problems in the fiscal design. Status on policy reform considerations

The fact of decentralisation, and the new tasks and functions given to all levels of local government, have not entailed an increase in the amount of their own financial resources. A considerable part of the tasks, especially those carried out by powiats and voivodships is still financed by means of transfers from the state budget.

This way of financing is considered to be the factor restraining local government reform and reducing their independence by limiting the ways in which tasks are realised and financed. The method of financing described above violates the so-called basic acts such as the Act of gmina government, the Act of powiat government, and the Act of voivodship government. Apart from this, supplying local governments with targeted grants via the national budget does not motivate local governments to obtain their own financial resources or to efficiently manage the money they get. It is also a characteristic of specific grants, which constitute a type of revenue that is earmarked for special purposes and must be returned to the state if not used.

Thus, government proposes changes in the types of local government tasks, and the ways of financing them. Government aims at replacing targeted grants transferred to local governments with own source revenues, and transforming commissioned tasks to own tasks. Increasing the financial independence of local communities will require changes in special acts.

2. THE TECHNICAL FRAMEWORK - CLASSIFICATION OF LEVELS OF GOVERNMENT AND ECONOMIC TRANSACTIONS

After the Second World War, Poland was divided according to the three-level administrative structure effective during the inter-war period. The territory of the country was divided into 17 voivodships, 330 poviats (counties) and, on the lowest level, 704 cities and 2,993 gminas (communes).

On 1st January, 1955, gminas were dissolved and replaced by 8,790 gromadas. Between 1955 and 1972 there was an intensive reduction in the number of gromadas, accompanied by a tendency to create new poviats. At the end of 1972, there were 390 poviats (75 of which were cities with poviat status) and 4,315 gromadas.

On 1st January, 1973, gromadas were dissolved and replaced by 2,365 gminas. On 1st June, 1975, poviats were dissolved, and the existing voivodships and cities with voivodship status were replaced by 49 voivodships.

On 27th August, 1990, 254 local offices were established. These are auxiliary institutions to territorial (voivodship) organs of the general State administration. The scope of authority of the local offices covers from several up to approximately twenty gminas. On 31st December, 1998, there were 268 local offices, which were liquidated on 1st January, 1999.

Further decentralisation reforms took effect as of 1st January, 1999. The authority of central government administration was curtailed in order to build decentralised forms of public administration. The following levels of local self-government were established: poviat and voivodship. Consequently, the following has existed in Poland since 1999:

- 1) 16 regional communities (voivodship self-governments);
- 2) poviats:
 - 308 rural poviats;
 - 65 town poviats (towns with the status of a poviat) – these poviats, in view of their size and profile, function as gminas and poviats at the same time; and
- 3) 2,489 gminas – basic unit of territorial division of the state.

In 1999, the introduction of Poland's new administrative division (the new units of local self-government: poviats and self-governing voivodships) the number of government voivodships was cut down from 49 to 16, the latter being the self-governing voivodships. The purpose of this reduction was to facilitate the future creation of regions and the implementation of regional policy that would take into account the needs of, and conditions prevailing in, different parts of the country.

A gmina is a self-governing community comprising the residents of the gmina and its territory. The gmina fulfils public duties in its own name and under its own responsibility, it has a legal identity and its self-governance is subject to legal protection. The basic body of a gmina is the gmina council, elected by residents (it is the constitutive and control body in a gmina). The governing board is the executive body consisting of 3 to 7 members.

The powiat, being a mid-level unit of local self-government, covers the areas of adjacent gminas or the whole area of a town with the status of a powiat. The powiat bodies include the powiat council and governing board. Similarly to gmina and voivodship councils, the powiat council is elected by all residents by direct election. The number of council members depends on the size of the powiat. The governing board of the powiat is elected by the powiat council.

The voivodship is:

1. A unit of local self-government – a regional self-governing community;
2. The largest unit of the basic territorial division of the state for the purpose of public administration.

The Act on Voivodship Self-government provides that the scope of powers of a voivodship self-government is without prejudice to the self-governing nature of any powiat or gmina, and no body of voivodship self-government may exercise control or supervision over powiat or gmina bodies, nor are they higher instance bodies in administrative proceedings.

Voivodship self-government bodies include the voivodship assembly (sejmik), elected in direct elections, which is the constitutive and control body, and the voivodship governing board (executive body).

The public administration reform realises a resolution of the Polish Constitution, one of its most important rules, the auxiliary principle, which strengthens the rights of citizens and their communities. According to this principle, every citizen is responsible for satisfying his own needs, and when he cannot manage it, he can ask for help from the closest community and, ultimately, from the government. Article 15 of the Constitution establishes that Polish territorial organisation guarantees the decentralisation of public authority to local government. Gminas (elementary units) belong to local government units and others defined by art.164 of the Polish Republic Constitution. Public administration reform was realised through constitution regulations.

A crucial assumption in public administration reform was the decentralisation of tasks, followed by the decentralisation of public finance in order to finance these tasks, primarily from own revenues. Polish regulations give citizens the voting rights to representative bodies, and also the right, by way of referendum, to determine all local matters. This allows local communities to have a real impact on decisions made at different levels of local government. Additionally, citizens and local authorities are entitled to make a motion for a referendum.

Joint responsibility and citizen co-operation on local matters fulfil the European Local Government Charter and express its idea of local government activity. According to that Charter, local government means the right and legal capacity of local communities, within the limits defined by law, to manage a fundamental part of public matters under their own responsibility and in the local residents' best interest.

The gmina (communes), the elementary units of country territorial division, carry out the tasks closest to the local community. The powiat realise local tasks as well. The difference is that powiat authorities also decide on matters which go beyond a single gmina's territory and responsibility. In contrast to these two levels of local government, a third level, the voivodship, is of regional importance because it has been established (created) to form and carry out regional policy. Voivodships are obliged to work out programmes of regional development within the framework of nationwide programmes, which have to respect the needs of gminas and powiats belonging to the voivodship. A forecast of economic development,

which includes an estimated unemployment rate, is prepared as part of a voivodship's development strategy. The voivodship is responsible for running medical work centres, training teachers in order to meet specific regional requirements, inspiring and supervising regional cultural institutions. But there is one local task attributed to, and carried out by, all the levels of government, even the voivodships, and that is road maintenance. Each level takes care of a different category of road.

The reforms of the administrative structure have not had a negative impact on the working of gminas, because gminas are legally protected by acts constituting a system of higher levels of local government. These acts have forbidden the violation of the independence of lower levels of government. Additionally, gminas are not vertically subordinate to poviats and voivodships, so they cannot suffer from their decisions. However, a favourable result of the reform for gminas is the beginning of co-operation with poviats and voivodships in carrying out certain tasks.

Of key importance is the fact that decentralisation, and the new tasks and functions given to all levels of local government, have not entailed an increase in the amount of their own financial resources. A considerable part of the tasks, especially those carried out by poviats and voivodships, is still financed by means of transfers from the state budget. Specific grants are an example of such transfers which fully or partly finance local government own tasks and realise tasks given by central governments (state administration).

This way of financing is considered to be the factor restraining local government reform and reducing their independence by limiting the ways in which tasks are realised and financed. Moreover, the method of financing described above violates the so-called basic acts such as the Act of gmina government, the Act of poviat government, and the Act of voivodship government. These acts allow gminas, poviats and voivodships to carry out public tasks on their own behalf and under their own responsibility, have a legal identity, and have their independence legally protected.

Apart from this, supplying local governments with targeted grants via the national budget does not motivate local governments to obtain their own financial resources or to efficiently manage the money they get. It is also a characteristic of specific grants which constitute a type of revenue that is earmarked for special purposes and must be returned to the state if not used. Purposes are determined by the body which transfers the funds.

Thus, government proposes changes in the types of local government tasks, and the ways of financing them. Government aims at replacing targeted grants transferred to local governments with own source revenues, and transforming commissioned tasks to own tasks. Increasing the financial independence of local communities will require changes in special acts.

The status of the capital, Warsaw

The system for the capital, Warsaw, is different from that of other gminas in Poland. Warsaw is a municipal unit consisting of eleven gminas. Apart from the duties specified in the Act on Local Self-government (Article 6), Warsaw gminas also carry out additional tasks, including the protection of historical places of importance to the Polish Nation, the organisation of central government administration and international organisations.

The main issues for Warsaw include:

- Planning development strategy for Warsaw;
- Public issues, especially infrastructure;
- Assistance in Warsaw's public affairs.

Warsaw's main body is the Capital City Council, directly elected by residents (it is the constitutive and control body). The Council consists of 65 members.

The executive body of the City Council is the governing board, which is elected by the Council. The head of the governing board is the President of Warsaw, who is also elected by the Council.

Warsaw's revenues include:

- Revenue from stamp duty levied on the Warsaw area;
- 50% of corporate income tax, which is the revenue of Warsaw gminas;
- Revenues from Warsaw property;
- Interest payments.

The revenues of Warsaw may be:

- Revenues from public collections;
- Special grants from central government;
- Special grants from extrabudgetary funds;
- Other fees from Warsaw gminas.

On public finance matters, Warsaw fulfils its duties in the same way as the other municipal units, gminas.

The population of Poland is 38,654,000, with an urban population of 23,908,000 and a rural population of 14,746,000.

The population density in Poland is 124 people per square kilometre.

Table 2.1 Gross Domestic Product, 1997-99. Market prices. National currency

Country: POLAND (in millions of zlotys)

	GDP
1997	472 350.4
1998	553 560.1
1999	615 559.6

Source: Statistical Bulletin; Central Statistical Office

Table 2.2 Municipalities by size

Number of inhabitants	Number of municipalities	Proportion of municipalities (%)	Proportion of the whole population in municipalities within the population range* (%)
– 4 999	583	23.4	5.9
5 000 – 9 999	1,060	42.6	19.5
10 000 – 49 999	746	30.0	36.2
50 000 – 99 999	55	2.2	38.4
>100 000	45	1.8	

* *Data as at June 30th, 2000*

3. GOVERNMENT FINANCE STATISTICS ON SUB-NATIONAL GOVERNMENTS

3.1 Sub-national revenue

Table 3.1 "Total revenue by level of government" was prepared on the basis of "Government Finance Statistics 1994-1999. Poland", which is prepared by the Financial Policy, Analysis and Statistics Department of the Ministry of Finance.

According to "Government Finance Statistics 1994-1999. Poland", Poland has the following units of General Government:

1. Central Government Units covered by the State Budget:

- Agencies, the chancellery of the president, the chancellery of the prime minister, the constitutional tribunal, the government centre of strategic studies, the sejm (the lower house of parliament), the ministries, the ombudsman's office, the senate (the upper house of parliament), the supreme administrative court, the supreme chamber of control (audit), and the supreme court.
- 16 district executives.

2. Central Government Units with Individual Budgets

- Auxiliary units, budget establishments, cultural establishments, special units, and universities.
- 7 non-social security special-purpose funds.
- 9 social security special-purpose funds - these units comprise the Administrative Fund of the Board for Social Insurance of Farmers Contributions' Fund, the Fund for the Prevention and Rehabilitation of Pensions and Disability Fund (for farmers), the Motivation Fund, the Reserve Fund, the Labour Fund, the Social Insurance Fund, and the State Veterans' Fund.
- Health funds.

3. Local and Regional Government

- Gminas (communes - the lowest tier of local government), poviats (counties) and voivodships (regions).
- Auxiliary units within local governments, budget establishments, cultural establishments, special purpose funds, special units.

There have been three levels of sub-national government since 1999 (gminas, poviats and voivodships), but data for this year are not separated.

In 1999, Zlotys 17,068 million was added to the social security funds, which is a contribution to health funds.

In 1999, the nominal growth in subnational government revenues was mostly due to the local government reform which was introduced that year (two new tiers of subnational government - poviats and voivodships - were created). These new tiers did not change the financial status of gminas (their financial sources were not touched), as their main sources of finance came from general and special grants.

So the 65.9 per cent growth in subnational government revenue (in 1999 vis-à-vis 1997) was mainly due to higher revenues from grants (general and special), which grew by 148.6 per cent in 1999 compared with 1997. At the same time, local government tax revenues grew by 8 per cent (subnational government did not receive any additional source of tax revenues) and non-tax revenues were higher by 42.7 per cent.

In spite of the nominal growth in local government tax revenues, these revenues decreased in relation to GDP by 0.61 percentage point (down from 3.54 per cent in 1997 to 2.93 per cent in 1999).

A similar trend (a decrease in tax revenues as a percentage of GDP) occurred in general government tax revenues.

In spite of the decrease in the local share of tax revenues in GDP, there was a growth of 2.6 percentage points in total local revenues as a percentage of GDP, to 12.8 per cent of GDP, in 1999. On the other hand, total revenues of General Government fell by 3.2 percentage points to 41.5 per cent of GDP.

Table 3.1 Total revenue by level of government, 1997, 1998, and 1999 (in millions of zlotys).

	Central Government			Social Security Funds			Regional Government			Local Government			General Government (Consolidated)		
	1997	1998	1999	1997	1998	1999	1997	1998	1999	1997	1998	1999	1997	1998	1999
Tax Revenue															
1000 Taxes on income, profits & capital gains	43409	49669	38430							9941	11785	10474	53350	61454	48904
2000 Social security contributions				58866	67139	60654							58866	67139	60654
3000 Taxes on payroll and workforce	1463	1672	1316										1463	1672	1316
4000 Taxes on property	6									5400	6283	6941	5406	6283	6941
5000 Taxes on goods and services	62596	70882	80646							1379	608	631	63975	71490	81277
6000 Other taxes	240	48	38			17068				1	26	15	241	74	17121
Total Tax Revenue	107714	122271	120430	58866	67139	77722	0	0	0	16721	18702	18061	183301	208112	216213
Non-tax revenue															
Oper. surpl. of dept. enterpr. & prop. income	5173	4707	3944	110	122	20				711	830	1097	5994	5659	5061
Fees, sales, fines	7558	8609	7605	63	52	63				10483	12202	15324	18104	20863	22992
Contr. to govt. employee pension funds															
Other Non-tax revenue	1396	1258	1390	857	913	8360				1290	1289	1399	3543	3460	11149
Total Non-Tax Revenue	14127	14574	12939	1030	1087	8443	0	0	0	12484	14321	17820	27641	29982	39202
Grants															
	12	12	37	0	0	0				15237	18400	37842	0	0	82
Total Revenue	121853	136857	133406	59896	68226	86165	0	0	0	44442	51423	73723	210942	238094	255497
Tax revenue as % of GDP															
	22.80%	22.09%	19.56%	12.46%	12.13%	12.63%	0.00%	0.00%	0.00%	3.54%	3.38%	2.93%	38.81%	37.60%	35.12%
Sub-national tax revenue as % of total tax revenue							0.00%	0.00%	0.00%	9.12%	8.99%	8.35%	100.00%	100.00%	100.00%

3.1.1 Tax revenue

1000 Taxes on income.

Subnational governments receive:

1. 30.1% of personal income tax, of which:
 - gminas - 27.6%,
 - poviats - 1.0%,
 - voivodships - 1.5%.
2. 5.5% of corporate income tax, of which:
 - gminas - 5.0%,
 - voivodships - 0.5%.

Both taxes are assessed and collected by central government.

4000 Taxes on property. 5000 Taxes on goods and services.

All taxes reported under headings 4000 and 5000 are in all revenues of gminas. Gminas have the legal right to set the rates of three taxes - agricultural tax, real estate tax and tax on means of transportation - and some local fees (heading 5000). Gminas have the right to decide about certain tax exemptions and tax deferrals.

The most significant tax revenues of local government are revenues from direct taxes (personal income tax and corporate income tax). The share of direct taxes in total tax revenues was equal to 58.0 per cent in 1999 and was lower by 1.5 percentage points compared to 1997. It must be admitted that local authorities have little influence over the development of their revenues from central tax sharing (the role of sharing in direct taxes is primarily fiscal – provision of funds to the eligible unit of self-government). The sole influence of the self-government on the amount of receipts therefrom is limited to the promotion of business, however the effects of such efforts can only be seen in the longer term.

During 1997-1999, there was growth in revenues from taxes on income, profit and capital gains, real estate tax and inheritance tax, and a decrease in revenues received from agricultural tax, forest tax and taxes on goods and services.

Lower nominal revenues from forest tax (by 9 per cent) and agricultural tax (by 1.7 per cent) were caused by significant changes in the elements that have an influence on the amount of revenues from these taxes.

In the case of agricultural tax, lower revenue was due to a decrease in the average price of rye, which is taken into consideration when assigning the tax rate; in the case of forest tax, it was due to a decrease in the price of wood.

However, the decrease by 54.2 per cent in revenue from taxes on goods and services was caused by changes in the make-up of tax on means of transportation.

The main reason for the growth in real estate tax was a growth in tax rates (which are revalued every year based on the consumer price index).

Table 3.2 Classification of taxes of sub-central governments. Local Government, 1997-99 (in millions of zlotys)

1997

Category	a	b	c	d.1	d.2	d.3	d.4	e	Total a-e
1000 Taxes on income, profits & capital gains						9941			9941
2000 Social security contributions									
3000 Taxes on payroll and workforce									
4000 Taxes on property									
<4100 Agricultural tax>		777							777
<4100 Forest tax>			111						111
<4100 Real estate tax>		4421							4421
<4300 Inheritance and gift tax>						91			91
5000 Taxes on goods and services		1379							1379
6000 Other taxes		1							1
Total	0	6578	111	0	0	10032	0	0	16721
(% distribution)	0.00%	39.34%	0.66%	0.00%	0.00%	60.00%	0.00%	0.00%	100.00%

1998

Category	a	b	c	d.1	d.2	d.3	d.4	e	Total a-e
1000 Taxes on income, profits & capital gains						11785			11785
2000 Social security contributions									
3000 Taxes on payroll and workforce									
4000 Taxes on property									
<4100 Agricultural tax>		811							811
<4100 Forest tax>			120						120
<4100 Real estate tax>		5229							5229
<4300 Inheritance and gift tax>						123			123
5000 Taxes on goods and services		608							608
6000 Other taxes		26							26
Total	0	6674	120	0	0	11908	0	0	18702
(% distribution)	0.00%	35.69%	0.64%	0.00%	0.00%	63.67%	0.00%	0.00%	100.00%

1999

Category	a	b	c	d.1	d.2	d.3	d.4	e	Total a-e
1000 Taxes on income, profits & capital gains						10474			10474
2000 Social security contributions									
3000 Taxes on payroll and workforce									
4000 Taxes on property									
<4100 Agricultural tax>		764							764
<4100 Forest tax>			101						101
<4100 Real estate tax>		5924							5924
<4300 Inheritance and gift tax>						152			152
5000 Taxes on goods and services		631							631
6000 Other taxes									
< Abolished taxes		15							15
Total	0	7334	101	0	0	10626	0	0	18061
(% distribution)	0.00%	41.86%	0.58%	0.00%	0.00%	58.83%	0.00%	0.00%	100.00%

Table 3.3 Classification of taxes of sub-central governments. Regional Government, 1997-99 (in millions of zlotys)

1997

Category	a	b	c	d.1	d.2	d.3	d.4	e	Total a-e
1000 Taxes on income, profits & capital gains									
2000 Social security contributions									
3000 Taxes on payroll and workforce									
4000 Taxes on property									
5000 Taxes on goods and services									
6000 Other taxes									
Total	0	0	0	0	0	0	0	0	0
(% distribution)									

1998

Category	a	b	c	d.1	d.2	d.3	d.4	e	Total a-e
1000 Taxes on income, profits & capital gains									
2000 Social security contributions									
3000 Taxes on payroll and workforce									
4000 Taxes on property									
5000 Taxes on goods and services									
6000 Other taxes									
Total	0	0	0	0	0	0	0	0	0
(% distribution)									

1999

Category	a	b	c	d.1	d.2	d.3	d.4	e	Total a-e
1000 Taxes on income, profits & capital gains									0
2000 Social security contributions									
3000 Taxes on payroll and workforce									
4000 Taxes on property									
5000 Taxes on goods and services									
6000 Other taxes									
Total	0	0	0	0	0	0	0	0	0
(% distribution)									

3.1.2 *Non-tax revenue*

The most important part of non-tax revenue comes from services rendered by the units of local government. These include fees for such services as: removal of waste, discharge of waste water, street cleaning, road maintenance, supply of water, heat and electricity to residents, kindergarten fees, swimming pool tickets, museums tickets, etc. However, receipts from services rendered normally do not cover expenditure incurred for that purpose.

The delivery of these services is often organised in local, government-owned enterprises.

The biggest part of non-tax revenue is collected by gminas.

It should be emphasised that it is not possible to obtain separate information on all types of non-tax revenues collected by local government.

3.1.3 *Inter-government financial relations – Grants*

The sub-national governments receive a general subsidy from central government, and specific grants from central governments and other extra-budgetary units.

The units of local government can receive specific grants to be used for the following purposes:

- for executing tasks in the field of government administration and other tasks which are commissioned by law;
- for executing the tasks of services, inspections and the municipal police;
- for financing and extra financing of their own tasks;
- for executing tasks which derive from agreements between units of local governments and government administrations or other units of local governments;
- for the task specified by the specific fund;
- for extra financing of their own tasks which derive from provincial contracts.

Data on sub-national government grants (Tables 3.4 and 3.5) are not consolidated and do not embrace local extra-budgetary accounts.

Table 3.4 The profile of central grants to local governments, 1997, 1998, and 1999 (in millions of zlotys).

Year	Specific Grants			General Purpose Grant			Total
				Discretionary			
	Current		Not Conditional	Objective criteria		With own tax effort	
	Conditional			Without own tax effort			
	Standard Costs	Actual	Costs				
1997	1882		3691		9530		15103
1998	2301		4272		11733		18305
1999	5455		8908		22116		36479

Table 3.5 The profile of central grants to regional governments, 1997, 1998, and 1999 (in millions of zlotys).

Year	Specific Grants			General Purpose Grant			Total
	Current			Discretionary			
	Conditional		Not Conditional	Objective criteria		With own tax effort	
	Standard Costs	Actual Costs		Without own tax effort			
1997							0
1998							0
1999							0

3.2 Sub-national expenditure

Similarly to the data on sub-national government revenues, the consolidated data on local government expenditures, in 1999, are not separated into gminas, poviats and voivodships because there are none prepared according to GFS classification.

Local authority reform and the introduction of new tiers of subnational government mainly resulted in growth in the total amount of subnational government expenditures, during the years 1997 - 1999. The new tiers, powiat and voivodship, took over a lot of tasks from central government. Together with new tasks, subnational government also received higher revenues, especially from grants. In 1999, total expenditures of subnational government were higher by 56.8 per cent in comparison with 1997.

The most important tasks realised by subnational government are:

- Education
- Social security and welfare
- Housing and community amenities

These three areas of expenditure embraced almost 67.6 per cent of total local government expenditures in 1999.

The most significant growth among these areas of tasks was in the case of education (there was nominal growth of 64.7 per cent in 1999 compared to 1997) and social security and welfare (with nominal growth of 92.7 per cent in 1999 compared to 1997). Growth was much lower in the case of housing and community amenities, at 17.6 per cent.

During the years 1997-1999, almost all areas of expenditure enjoyed nominal growth. The process of decentralisation is still developing and subnational government has been taking over new tasks that are important for local authorities.

Table 3.6 Current expenditure by function and level of government, 1997, 1998, and 1999 (in millions of zlotys).

	Central Government and Social Security			Regional Government			Local Government			General Government (Consolidated)		
	1997	1998	1999	1997	1998	1999	1997	1998	1999	1997	1998	1999
1 General public services	7061	8039	8309				4180	4998	6520	11241	13037	14829
2 Defence	7348	8294	9019				9	9	19	7357	8303	9038
3 Public order & safety	8287	9419	7851				255	368	3803	8542	9787	11654
4 Education	11432	13240	10162				15279	17706	25164	26711	30946	35326
5 Health	18751	20773	24373				2383	2801	1835	21134	23574	26208
6 Social Security & Welfare	93301	103522	111037				4186	4983	8067	97487	108505	119104
7 Housing & community amenities	4026	3481	2190				14367	15938	16901	18393	19419	19091
8 Recreational, cultural & religious affairs	1992	2184	1303				2182	2712	3797	4174	4896	5100
9 Fuel & energy	1005	1004	1406				2	2	0	1007	1006	1406
10 Agriculture, forestry, fishing & hunting	3442	3839	3441				1003	982	1658	4445	4821	5099
11 Mining, manufacturing & construction, except fuel & energy	825	962	1162				112	113	451	937	1075	1613
12 Transportation & communication	3481	4439	2965				2902	3760	5271	6383	8199	8236
13 Other economic affairs	1143	1178	1050				191	155	231	1334	1333	1281
14 Other functions	31466	36527	58506				250	326	439	16209	18048	18993
<i>Adjustment for employer contributions at the same level</i>	-10271	-9352	-3378							-16160	-16262	-8329
15 Total current expenditure	183289	207549	239396	0	0	0	47301	54853	74156	209194	236687	268649
16 Total current government expenditure.												
% of GDP	38.80%	37.49%	38.89%	0.00%	0.00%	0.00%	10.01%	9.91%	12.05%	44.29%	42.76%	43.64%

Table 3.7 Expenditure indicators by the three most important policy sectors. Local Government. 1997, 1998 and 1999.

(in millions of zlotys, and as a percentage)

	4.1-2 Pre-Primary, Primary, & Secondary Education			6. Social Security & Welfare			7. Housing & Community Amenities		
	1997	1998	1999	1997	1998	1999	1997	1998	1999
Local expenditure (on policy sector), in millions of National Currency	14727	17067	23364	4186	4983	8067	14367	15938	16901
	%	%	%	%	%	%	%	%	%
Local expenditure (on policy sector) as a proportion of total local expenditure	31.1	31.1	31.5	8.8	9.1	10.9	30.4	29.1	22.8
Local expenditure as a proportion of total government expenditure on (policy sector)	55.1	55.2	66.1	4.3	4.6	6.8	78.1	82.1	88.5
Local and regional expenditure (all subnational expenditure on the policy sector in question) as a proportion of total government expenditure on (policy sector)	55.1	55.2	66.1	4.3	4.6	6.8	78.1	82.1	88.5
Proportion of local expenditure (on policy sector) covered by specific grants									
Proportion of local expenditure (on policy sector) covered by non-tax revenues									

Table 3.8 Expenditure indicators by the three most important policy sectors. Regional Government 1997, 1998 and 1999.

(in millions of zlotys, and as a percentage)

	(For example 4.1 Primary education)			x.y			z.w		
	1997	1998	1999	1997	1998	1999	1997	1998	1999
Regional expenditure (on policy sector), in millions of National Currency									
	%	%	%	%	%	%	%	%	%
Regional expenditure (on policy sector) as a proportion of total regional expenditure									
Regional expenditure as a proportion of total government expenditure on (policy sector)									
Local and regional expenditure (all subnational expenditure on the policy sector in question) as a proportion of total government expenditure on (policy sector)									
Proportion of regional expenditure (on policy sector) covered by specific grants									
Proportion of regional expenditure (on policy sector) covered by non-tax revenues									

Table 4.1 Expenditure assignment - actual status of the legal framework

(x indicates which level of government holds the main responsibility for each service)

		Central Government	Regional Government	Local Government	
				Poviats	Gminas
1	General public services				X
2	Defence	X			
3	Public order & safety	X		X	X
4	Education	X	X	X	X
5	Health	X	X	X	X
6	Social Security & Welfare	X	X	X	X
7	Housing & community amenities				X
8	Recreational, cultural & religious affairs	X	X	X	X
9	Economic services	X	X		
10	Fuel & energy	X			
11	Agriculture, forestry, fishing & hunting	X			
12	Mining, manufacturing & construction, except fuel & energy	X			
13	Transportation & communication	X	X		X
14	Other economic affairs				
15	Other functions				

4. EVALUATIONS ON SUB-NATIONAL AUTONOMY AND NATIONAL FISCAL CONSTRAINTS

4.1 General presentations of the sub-national government system. Summary on government finance reform policies

4.1.1 General public services

Gmina, as the basic level of administrative division of the state, fulfils duties of a truly local nature. A list of these duties, though not exhaustive, is set out in Article 7.1 of the Act on Gmina Self-government, of 8th March, 1990. Municipal services are one such local duty, covering such services as water mains, water supply, waste disposal, supply of electricity and heat, and gas. In the area, gminas are, amongst other things, responsible for building utility connections on land as needed by local residents. Gminas are also responsible for ensuring that municipal waste is discharged and treated, for keeping land clean and orderly, for the maintenance of sanitary facilities, waste dumps and the treatment of municipal waste. More detailed regulations on these services are included in special acts such as the Act on Keeping Gminas Clean and Orderly, of 13th September, 1996. Under that law, gminas are, i.a., responsible for: the establishment of organisational units in charge of keeping areas clean and orderly; the building and maintenance of municipal waste dumps; preventing the littering of streets by supplying waste baskets; creating conditions for the collection of sorted waste; the construction and maintenance of animal burial sites and incineration plants where dead animals can be incinerated; etc.

In the area of municipal duties, gminas are also responsible for: the establishment and maintenance of municipal cemeteries (this is regulated in detail in the Act on Cemeteries and Burial of the Dead, of 31st January, 1959); the maintenance of gmina facilities and public utilities; the operation of market places and market halls; the creation of municipal greens, etc.

4.1.2 Public order and safety

In general, matters involving public order and safety are the responsibility of the State. However, certain duties in this area are also assigned to the poviats and gmina self-governments. Pursuant to Article 4.2 of the Act on Poviat Self-government, of 5th June, 1989, the poviat's responsibilities also include the performance of tasks assigned to poviat services, inspectorates and guards. The starosta, as a superior of the poviat services, inspectorates and guards:

- appoints and dismisses managers of these units, in consultation with the voivod;
- approves their action plans;
- reconciles joint actions of these units within the poviat area;
- manages joint actions of these units in special situations; and
- requests audits in justified cases.

Nevertheless, it does not change the fact that these units are organisational units of the central government and are fully financed from state budget funds. Poviats receive specific grants for their operation and are accountable to the state budget for the way in which these funds are applied, and must return unused funds to the state budget account.

On the other hand, gminas may establish gmina (urban) guards whose operations are financed from the gmina budget. This duty is not mandatory and the decision on whether or not to establish the guards lies with the gmina council. The rules on the functioning of gmina guards are set out in the Act on Gmina Guards, of 29th August, 1997.

4.1.3 Education

Responsibilities in the field of education are assigned to both central authorities and all three levels of local government. The government administration is responsible for the operation of state schools and art schools; self-governing voivodships are responsible for higher vocational schools, poviats are responsible for the establishment and operation of special high schools and special secondary schools, high schools and sports schools, while gminas are empowered to manage kindergartens, primary schools and secondary schools.

4.1.4 Health

The healthcare services, as with education, are provided by the three levels of local government and the government administration. Pursuant to the Act on Healthcare Institutions, of 30th August, 1991, healthcare institutions can be established, i.e., by a minister or an organ of central government administration, voivod or unit of local self-government. Basic healthcare responsibilities are fulfilled by gminas, and tasks that extend beyond a gmina's boundaries fall to poviats and self-governing voivodships. On the other hand, the voivodship self-government is exclusively authorised to set up, transform and merge sanitary transport services.

4.1.5 Social security and welfare

The basic responsibilities in the field of social assistance are performed by gminas and poviats. The said units fulfil these duties partially as their direct responsibility and partially as duties delegated by the central government administration. Pursuant to the Social Assistance Act of 29th November, 1990, the direct responsibilities of gminas in the area of social assistance include, without limitation, the operation of social assistance facilities, the disbursement of various allowances and other social benefits, and the provision of shelter, meals and financial assistance. Poviats are directly responsible for, amongst other things, the operation of various educational and care facilities, the operation of social assistance facilities that extend beyond a gmina's boundaries, assistance to people leaving certain categories of care facility, correction facilities, social assistance houses, and foster families.

The tasks in the area of social assistance are also, though to a smaller extent, fulfilled by the voivodship self-government and by voivods. Their tasks are more general and consist in the co-ordination of the performance of tasks, determining the manner of their performance, assessing their completion, preparing the balance of needs and means, and arrangements for training in the field of social assistance tasks.

4.1.6 *Housing and community amenities*

All housing stocks that are not at the disposal of the State Treasury and are not freehold or cooperative apartments, are owned by gminas. Accordingly, gminas, as their owners, are responsible for the maintenance of housing stocks, and making various repairs and renovations as laid down in detail in the Act on Renting Premises and Housing Allowances of 2nd July, 1994. Being the owners of apartments, gminas are also able to sell them, preferably to current tenants but also, in specific cases regulated by statute, to other entities. The rules for selling municipal apartments are set out in the provisions of the Act on the Ownership of Premises, of 24th June, 1994.

4.1.7 *Recreational, cultural and religious affairs*

The tasks in this field are performed by all levels of self-government. Under Article 7.1.9 of the Act on Gmina Self-government, gminas are responsible for culture, including gmina libraries and other institutions promoting culture; under Article 10 gminas are responsible for sport, including recreation areas and sports facilities. Under Article 4.1.7 of the Act on Poviat Self-government, poviats were assigned the responsibility for encouraging culture and preserving cultural assets; the same responsibility was also assigned to the voivodship self-government under Article 14.1.3 of the Act on Voivodship Self-government. On the other hand, the state is the general patron of culture; its role entails the support and promotion of creativity, education and cultural education, cultural action and initiatives and the protection of cultural heritage. The units of local self-government play the role of patrons of culture within the territory under their jurisdiction. The detailed principles applying to the fulfilment of tasks in the area of culture are laid down in the Act on Arrangement and Promotion of Culture, of 25th November, 1991. Pursuant to the provisions of that Act, the ministers and heads of central offices establish state cultural institutions whilst the units of local self-government establish local cultural institutions.

Additional regulations govern, on a separate basis, the operation of libraries. They are contained in the Libraries Act of 27th June, 1997.

4.1.8 *Economic affairs*

Self-government (voivodship self-government, to be precise) is authorised to set out the voivodship development strategy that is to be implemented pursuant to the rules laid down in the Act on Regional Development Support, of 12th May, 2000. The support of regional development at the level of self-governing voivodship must be consistent with the national strategy for regional development. This strategy is pursued on the basis of voivodship contracts made between the Council of Ministers represented by the relevant minister and the voivodship self-government represented by the voivodship marshal.

4.1.9 *Transportation and communication*

As regards the urban transport service, gminas are responsible for its provision and financing (the Act on Gmina Self-government defines it as local group transport). The maintenance of rail transport of nationwide importance is financed from the state budget, and that of significance for a voivodship may be partially financed from the budget of that self-governing voivodship. Such regulations are contained in the Rail Transport Act of 27th June, 1997.

All levels of local self-government are authorised to issue permits to provide domestic paid passenger transport services, depending on the area where such services are provided.

4.1.10 Reforms

Four reforms were launched in Poland, in 1999:

- Pension system reform
- Reform of public health-care services
- Education reform
- Local government reform

The pension system reform, the reform of public health care services, and the local government reform have had the most important influence on public finance.

Pension system reform.

This reform has been high on the government's list of priorities in recent years.

The previous Polish public pension system was based on a pay-as-you-go scheme. The benefits were not directly related to previous contributions but determined according to some fixed rules which may differ across sectoral affiliations and professions.

The pension system reform is based on an institutional re-organisation consisting of the establishment of individual social security "accounts" as part of the system's public pillar, and the introduction of incentives to pay more (voluntary social security contributions, and the addition of two private pillars (investment funds)).

The first pillar involves a mandatory pay-as-you-go scheme with a direct and transparent link between contributions and benefits. The second, and entirely new, funded pillar consists of pension funds (to which a part of the ZUS contribution is transferred). The third pillar encompasses all voluntary additional forms of saving for retirement.

The health care system reform

The health care system reform decentralises the allocation of funds and creates stronger ties between the amount of financing and the quality of services. In addition, the reform is also intended to protect health care institutions against uncontrolled growth of indebtedness.

This new decentralised insurance-based system marked a radical change from the centrally-controlled, budget-based system. The new health insurance system which started on 1st January, 1999, aims at providing a stable and transparent means of raising funds, through compulsory income-based health insurance premiums from the eligible population or from the state for those unable to make such contributions. The insurance premium is set at 7.5% of taxable income, deductible from personal income tax.

Prior to 1999, health care services were funded by social security contributions, which covered all forms of social insurance without any clear demarcation.

The organisational structure consists of 16 regional health funds corresponding to the new administrative division plus an additional branch fund. Health funds are non-profit-making organisations, financed directly by insurance premiums.

4.2 Local discretion – tax administration and relation to central government

Pursuant to Article 217 of the Polish Constitution: “The imposition of taxes, as well as other public imposts, the specification of those subject to the tax and the rates of taxation, as well as the principles for granting tax reliefs and remissions, along with categories of taxpayer exempt from taxation, shall be by means of statute”. Polish tax regulations can be divided into two groups:

- General tax acts referring to all taxes, such as the Tax Code, the Act on Enforcement Proceedings in Administration, the Fiscal Penal Code, the Tax Inspection Act, and the Act on the Principles of Registration and Identification of Taxpayers and Remitters; and
- Special tax acts i.e. the acts introducing different taxes to the existing legal system, such as the Individual Income Tax Act, the Corporate Income Tax Act, the Value Added and Excise Taxes Act, the Act on Games of Chance and *Pari-Mutuel* Betting, the Act on Local Taxes and Charges, the Agricultural Tax Act, and others.

The very first piece of legislation regulating the sources of revenue of gminas in a comprehensive manner, was the Act on the Revenues of Gminas and the Principles of Subsidising Them in 1991, of 14th December, 1990. That Act specified the revenue of gminas for the period of three years and was then superseded, in December 1993, by the Act on Gmina Financing that was, in turn, superseded in 1999, in connection with the administrative reform of the state, by the currently applicable Act on the Revenues of the Units of Local Self-Government, in 1999 and 2001. By virtue of the aforesaid acts, the units of local self-government in Poland obtained the following sources of tax revenues:

- from local taxes; and
- from a share of state taxes.

Public finance was decentralised, too, alongside the new division of the state and the assignment of new duties to individual levels of self-government. However, the budgets of gminas remain the only budgets that are funded from local taxes and charges that constitute, in their entirety, the own revenue of gminas. On the other hand, the revenues of poviats and self-governing voivodships do not come from any independent tax sources other than a share in income taxes charged by the state.

Local taxes are deemed the basic revenue of gmina budgets in Poland since:

- they are fully administered by local self-governments; and
- local authorities are able to affect their rate.

The regulations regarding local taxes are contained in the following acts: the Act on Local Taxes and Charges, the Agricultural Tax Act, the Forest Act, the Act on Inheritance and Gifts, the Act on Lump-Sum Tax on Certain Revenue Generated by Individuals.

Local taxes in Poland include:

- Real estate tax
- Agricultural tax
- Forest tax
- Tax on means of transportation
- Dog tax
- Inheritance and gift tax

- Tax payable on the basis of a tax card

Another group of revenues that is of particular importance in the structure of revenues of local self-government, is their share of central taxes. The units of local government have a share of the following two state taxes:

- Personal income tax
- Corporate income tax

The rates of self-governments' share of income taxes in the years 1996-1999 are presented in Table below.

	Personal Income Tax				Corporate Income Tax			
	1996	1997	1998	1999	1996	1997	1998	1999
	%							
1. Gminas	15.0	16.0	17.0	27.6	5.0	5.0	5.0	5.0
2. Poviats	-	-	-	1.0	-	-	-	-
3. Voivodships	-	-	-	1.5	-	-	-	0.5
TOTAL	15.0	16.0	17.0	30.1	5.0	5.0	5.0	5.5

The increase in gminas' share of revenues from PIT, since 1999, was a result of the health reform, and that was nominal not real growth. Due to the health reform, budget revenues from PIT decreased by 7.5% (7.75% since 2001). This amount represents the health contributions which were transferred from the Pension Fund to the Health Fund. Thus, gminas' share in PIT would have been lower due to the health reform had it not been for the increase in the index of gminas' share in personal income tax to 27.6%.

It must be admitted that local authorities have little influence on the development of their revenues from central tax sharing (the role of sharing in direct taxes is primarily fiscal – the provision of funds to the eligible unit of self-government). The sole influence of the self-government on the amount of receipts therefrom is limited to the promotion of business, however the effects of such efforts can only be seen in the longer term.

Structure of Tax Sharing

The role of local authorities in income tax is primarily fiscal – provision of funds to the budget of the eligible unit of self-government. Its structure does not provide for a non-fiscal function, such as transferring revenue from financially stronger gminas to the weaker ones.

The structure of individual income tax sharing has been modified over recent years. Pursuant to the current regulations, the share of a relevant unit of local self-government in individual income tax receipts is determined by multiplying total tax receipts by a specified ratio (0.276 in the case of gminas (0.01 in the case of poviats and 0.015 in the case of voivodships), and the ratio equal to the share due for the year immediately preceding the base year¹ of income tax chargeable on individuals residing within a relevant gmina (powiat, voivodship) in the overall amount of tax due during the same year as determined on the basis of tax returns submitted by 30 June of the base year, specifying the amount of revenues and annual tax calculated by tax remitters. The share in question is an important source of revenues in places where

¹ The base year is the year immediately preceding the year for which the budget of the units of local self-government is determined. If the budget is determined for the year 2000, 1999 is the base year.

individuals generate high income and, consequently, pay high income tax. This share will play a minor role in rural gminas as the individual income tax in such gminas is of lesser importance.

Prior to 1996, the structure of individual income tax sharing used to be completely different: it was more favourable for gminas with weaker finances (e.g. rural gminas) where individual income tax played a minor role. Such gminas would have participated in that tax even if no sources of that tax had been in their territory.

Tax Authority of Gminas

One of the most important principles of the local self-government's financial system is the enactment of local legislation regarding certain taxes and charges. The right of local authorities to adopt resolutions on taxes and charges is laid down in special acts. Within the framework of current regulations, only gmina self-governments are empowered to lay down tax regulations that determine tax structures.

The authority of gminas as units of local self-government extends over: taxes and charges laid down in the Act on Local Taxes and Charges; the agricultural tax set out in the Agricultural Tax Act; and the forest tax regulated under the Forest Act.

The authority of a gmina council (the constitutive and control organ of a gmina, vested with the basic powers concerned with the organisation and operation of a gmina) regarding the adoption of resolutions on taxes and charges, is expressly limited to public revenue, as laid down in special acts. The units of local self-government do not have any extra-statutory "tax authority" other than charges, if any, levied on local residents following a successful referendum held on the matter. The statutory tax authority is quite limited and brought down to non-uniform functional powers. In most cases, it allows the reduction of upper rates of individual taxes, to the extent laid down in statutes (i.e., real estate tax, agricultural tax, forest tax). The upper tax rates are determined and updated on an annual basis by the Finance Minister within the framework of the general tax policy of the state.

Another instrument of tax authority used by the units of local self-government is the granting of relief, deferment and remission of taxes that make up the gmina's revenues and are directly paid to the gmina's account. The same power can be exercised in the form of a waiver of the collection of such taxes (relevant decisions may solely refer to individual applications filed by taxpayers).

Gminas may independently implement their duties, and are free to do so in the area of fiscal policy, provided that they are able to fulfil the mandatory duties assigned to them, i.e. that they hold enough funds to finance these duties. This obligation is reflected in the regulations as a prohibition to cease determination of a given tax source. The fulfilment of mandatory duties is further ensured by the control organs, such as the regional clearing chambers, the Supreme Audit Chamber, and voivods.

As evidenced by the analysis of local budgets, self-governments also apply this instrument of tax authority. In 1999, they granted reliefs, deferments and remissions of taxes, and reduced the upper rates of the taxes making up the gmina's revenue, to the value of ca. 3.2 % of total receipts. This included a reduction of real estate tax receipts by 18.1% (they had been in excess of 78.0% of the whole amount of reliefs decided by gmina councils).

On the other hand, poviats and self-governing voivodships do not have individual revenue from local taxes and charges; they only have a share of government taxes i.e. individual income tax and corporate income tax. The amount of additional pooled resources shared by the units of local self-government depends on central government decisions on, amongst other things, the system of statutory tax reliefs and concessions. It does not mean, however, that these taxes cannot, at least partially, affect the amount of revenue therefrom. The amount of income tax receipts depends on the amount of taxes paid by taxpayers residing (or with their registered office) within the territory of a given unit. The units of local self-government may

actually stimulate the growth of tax receipts by such measures as the development of the labour market, the creation of new jobs, the creation of appropriate conditions for attracting business, etc.

Real estate tax

Real estate tax plays a special role in the revenue of gminas. It is the largest source of revenue, and gmina authorities are able to affect its rate. Real estate tax is regulated under the Act on Local Taxes and Charges. This Act lays down uniform rules of determination and rates of real estate tax charged on individuals, legal entities and non-corporate organisations.

Real estate tax is imposed on individuals, legal entities and non-corporate organisations that:

- are owners or beneficial owners of real estate or buildings that are permanently affixed to land;
- are holders of perpetual usufruct of real estate or parts of real estate;
- are beneficial owners of real estate or buildings that are not permanently affixed to land owned by the State Treasury or units of local self-government, further provided that their beneficial ownership arises out of a contract made with the owner or another legal relationship, and also a contract made with the State Treasury Agricultural Property Agency or administration appointed for it;
- hold, without any legal title, real estate or buildings that are not permanently affixed to land and owned by the State Treasury or units of local self-government, excluding real estate held in the State Treasury Agricultural Property Resources or managed by the State Forests.

The following are subject to real estate tax:

- Buildings or parts of buildings;
- Structures or parts thereof used for business activity other than agricultural or forest activity;
- Land that is not subject to the agricultural or forest tax regulations;
- Land subject to the agricultural or forest tax regulation and used for business activity other than agricultural or forest activity, and land that is not classified as arable land located in urban areas and also areas excluded from agricultural or forest use by virtue of final administrative decisions, save for land that has been used for agricultural purposes during the two years after the final administrative decision designating this land for non-agricultural purposes, was issued;
- Land under lakes, land occupied by retention tanks or tanks of water power plants.

The basis of taxation is:

- in the case of buildings or parts thereof – the usable floor area;
- in the case of structures – their value used for the calculation of depreciation;
- in the case of land – the area of this land expressed in square meters.

The rates of real estate tax are set on an annual basis by the gmina council, provided that their upper limit is capped with rates set by the Finance Minister on an annual basis, and their lower limit cannot be less than 50% of the upper limit set for these rates.

The real estate tax from individuals for a tax year is set in a decision by a local official (wójt [*manager of rural powiat*], mayor, president) from the applicable jurisdiction for the location of the relevant estate. The tax is payable in instalments by 15th March, 15th May, 15th September and 15th November of the tax year.

Legal entities, non-corporate organisations, units of organisation of the State Treasury Agricultural Property Agency and the units of organisation of the State Forests are responsible for:

- Submission, by 15th January, to the gmina organ of applicable jurisdiction for the location of real estate, real estate tax returns for a given tax year, in the agreed form, and if the tax obligation arises after that date – within 14 days after the circumstances justifying the obligations arose; and
- Payment of the real estate tax, in the amount calculated in the returns, to the budget account of the relevant gmina, for the months in question, by the 15th day of each month.

The real estate tax system provides for a number of exemptions:

- Real estate or its parts taken up for the needs of local self-government authorities and their administration;
- Public roads together with the land and roadways occupied by them;
- Structures that are exclusively used for the purposes of public railway transportation and land occupied by such structures;
- Land occupied by flowing water or navigation channels save for lakes and land taken by storage reservoirs or water power plants;
- Real estate or parts thereof used for statutory activity by associations concerning children and youth in the area of education, upbringing, science and technology, physical culture and sport, excluding real estate used for business activity and land permanently occupied by camping sites and holiday facilities for children and young people;
- Buildings and land entered in the register of historical monuments, on condition that their maintenance and conservation is in accordance with the regulations on preservation of historical monuments, excluding parts occupied for the purpose of business activity; and
- Buildings and land managed by registered museums.

It is also worth mentioning that the gmina council may grant reliefs other than those listed above, however such reliefs cannot be general, they must be selective i.e. applying to a specified and clearly classified type of real estate.

Recent major tax reforms with consequences for subnational governments

A distinctive trait of the tax system that used to exist in Poland until 1989, was its division into two independent sub-systems: taxation of socialised enterprises, mostly state-held, and taxation of people and the non-socialised economy. This division required a great number of different taxes which entailed numerous groups of legislation (secondary legislation in particular) and considerable differentiation in the level of tax burden.

The transformation of the Polish economy entailed the necessity of radical reconstruction of the tax system and its adjustment to the market economy, making it modern and compatible with the tax system of Western countries.

The tax system in force in the early 1990s included an excessive amount of legislation. It led to the fragmentation of the tax system as evidenced, i.a., by the fact that one problem was often regulated by several pieces of legislation. This, in turn, considerably impaired the transparency and comprehensibility of the tax system as a whole.

In 1999, the Polish Government adopted the long-term “Strategy for Public Finances and Economic Development, Poland 2000-2010”, containing a presentation of the ways of meeting challenges in the field of creating new competitive jobs and bridging the civilisation gap between Poland and the EU. The tax system reform is part of the strategy.

The tax reform, as presented in the “Strategy”, aims at:

- Tax cuts: reduction of direct taxes means lessening the burden imposed on residents and businesses, and a reduction of the tax burden provides the conditions for creation of new jobs;
- Simplification of taxes: simple taxes mean, on the one hand, making it easier for an average taxpayer and, on the other hand, it curtails opportunities for tax abuse and taking advantage of legal loopholes; and
- System stabilisation: stable taxes help increase the feeling of security and predictability on the part of investors, both domestic and foreign, as well as of each household.

As an overall assessment of the public administration reform, one must say that the lowest level of administrative division of the state, namely a gmina, functions in a positively proper and stable way. During the ten years of gmina existence, the authorities have been successful in working out a clear and transparent system of financing local tasks by eliminating dark spots and irregularities in the course of implementation by legislative measures or by relevant interpretation of ambiguous provisions. The stability of the financial economy of gminas is also due to the fact that gminas were granted tax sources as the source of their revenue. The financial independence of poviats and self-governing voivodships is poorer as they do not have own sources of funding and are primarily funded from specific grants and subsidies, and state tax sharing.

National measures for revenue-efficient local tax administration

The general notions and terms relating to Polish taxes are introduced under the provisions of the Tax Code, such as the notion of tax, tax obligation, tax liability, tax arrears, tax credit, tax responsibility and limitation of tax liabilities, and also specify the type of tax authorities that decide on tax inspection and many other issues.

The tax authorities in Poland can be divided into state (government) and local (self-government) authorities. The government authorities are: tax offices, tax chambers and the Finance Minister. Tax offices are authorities of original jurisdiction while tax chambers are appeal authorities before which you can appeal against decisions made by tax offices. Taxes on the importation of goods and services (i.e. value added tax and excise tax) are collected by customs authorities.

The Finance Minister plays an important role in tax proceedings. Being the supreme body of central administration for finances of the state, he primarily effects general supervision of tax liabilities. This supervision entails the uniform application of tax regulations by other tax authorities. For this purpose, the Minister provides official interpretation of tax regulations.

The local tax authorities include: wójt or mayors (city presidents) as authorities of original jurisdiction, and local boards of appeal as appeal authorities before which you can appeal against decisions made by the wójt or mayors. The local tax authorities have jurisdiction in matters of local taxes and charges, including:

- Real estate tax
- Agricultural tax
- Forest tax
- Vehicle tax

- Dog tax

Nevertheless, the settlement of basic taxes falls under the jurisdiction of tax offices and tax chambers that handle the following taxes:

- Individual income tax
- Corporate income tax
- Value added tax
- Excise tax

The last two taxes constitute, in their entirety, the source of state budget's revenue.

Tax offices also collect some taxes constituting, in their entirety, the source of gmina self-government revenue:

- Inheritance and gift tax
- Tax cards.

By virtue of the Tax Code and other tax statutes, tax authorities are empowered to issue decisions on tax-related matters, including:

- Assessment of tax liability
- Calculation of tax arrears
- Determination of tax credit
- Waiver of assessment of tax liability
- Waiver of tax collection
- Remitter's tax liability
- Tax liability of heirs
- Liability of third parties

The institution of tax proceedings, and the issue of decisions, orders and taking other action in connection with legal proceedings, are regulated in Title IV of the Tax Code entitled "Tax Proceedings."

Table 4.1.1 Authorities engaged in the assessment of tax liabilities

	Tax Type	Entities Obligated to Pay Taxes	Tax-charging Body	Budget Eligible to Receive Tax
1.	Real estate tax	Legal entities, individuals, non-corporate organisations;	Gmina	Gmina budgets
2.	Tax on means of transportation			
3.	Dog tax	Individuals;		
4.	Agricultural tax	Legal entities, individuals, non-corporate organisations;		
5.	Forest tax			
6.	Inheritance and gift tax	Individuals;	Tax Offices	
7.	Taxes payable under tax card	Individuals;		
8.	Personal income tax	Individuals;	Tax Offices	State budget, gmina budget, poviast budgets and voivodship budgets
9.	Corporate income tax	Legal entities, non-corporate organisations;	Tax Offices	State budget, gmina budget and voivodship budgets

4.3 National regulation of the framework for non-tax revenues

The system of legal rules setting out the construction and functioning of non-tax revenues of the local government in Poland is made up of several statutes in force, of varied significance and character. These statutes include the aforesaid Act on the Revenues of the Units of Local Self-government between 1999-2000 (this Act replaced the prior Act on Gmina Financing, and laid down the specification of the revenue sources of poviast and voivodship self-governments), which lists the source of revenues of local self-governments. The issues of non-tax revenue constituting the revenue of self-governments are regulated in detail in other acts such as the Act on Local Taxes and Charges, the Stamp Duty Act, the Finance Minister's Implementing Regulation Relating to Stamp Duty, the Act on Municipal Management, the Act on Lease of Residential Premises and Housing Allowances, and a number of other acts.

The following items make up the non-tax revenues of the local self-government in Poland:

1) Gmina charges:

- Stamp duty;
- Administrative charge;
- Market dues;
- Stallage;

- Prices applicable to services and business activity rendered by self-government units of organisation;
- Charge for a permit to sell alcohol;
- Mineral royalties – 60% of any mineral royalties constitute the income of a gmina where there is licensed activity, and 40% thereof is the revenue of the National Fund for the Protection of the Environment and Water Economy; and
- Other charges, penalties and fines (i.e., charges for cutting trees and shrubs, charges and penalties for vehicle parking on roads, and fines imposed by city guards or gmina guards).

2) Revenue derived from assets and businesses of local self-government:

- Rents from premises, buildings, land or other things or rights owned by the self-government;
- Fees payable for perpetual usufruct of land owned by the self-government;
- Fees payable for permanent administration of land owned by the self-government;
- Receipts from sale of real estate owned by the units of the self-government;
- Adjacent fees;
- Fees for failure to build upon or develop land within specified limits;
- Profits generated by companies and plant; and
- Revenues from the sale of business, the sale or other distribution of shares of a privatised enterprise or part thereof to a duly established company, and other revenue related to privatisation processes of enterprises owned by gminas.

3) Other revenue from private legal sources:

- Revenue deriving from inheritance, legacies and gifts;
- Revenue from interest accruing on funds deposited in a bank account; and
- Interest accruing on lending.

Revenue from assets constitutes a non-uniform source of revenue of local budgets. The prevailing part of such revenue comes from services rendered by the units of local self-government. These include fees for such services as: removal of rubbish, discharge of waste water, street cleaning, road maintenance, supply of water, heat and electricity to residents, kindergarten fees, swimming pool tickets, museum tickets, etc. However, receipts from services rendered do not usually cover expenditure incurred for that purpose.

The business activity adopted to fulfil the duties of a gmina's organisational units may be carried out in the form of budget undertakings, special measures and special services, provided that the costs of their activity are covered from own revenue. For example, a budget undertaking is used for the Municipal Transport Service whose main revenues come from officially set prices for local group transport services. These prices are determined by the gmina council as provided for in the Price Act. The Water and Sewage Services may also operate as budget undertakings (water and sewage charges constituting the revenue of such services are set by the gmina council), the Housing Management (regulated rents constituting their revenue are determined by the gmina council) and others.

In line with the Act on Gmina Self-Government, the gmina authorities may enact gmina regulations on the rules and procedures for using gmina facilities and public utilities. Any regulations in this area may be issued by the gmina body (gmina council, gmina governing board) in the form of a resolution. One of the rules of using gmina facilities and public utilities may also be the fees charged for the use of these facilities

and utilities. Nevertheless, any fees set by the gmina must have a clear statutory basis, the so-called statutory authorisation.

An important general rule in that area was laid down in the Act on Municipal Management. Pursuant to that regulation, unless provided otherwise in special regulations, the constitutive bodies of the units of local self-government decide on the rate of prices or fees or the manner of setting prices and fees for municipal services being public utilities, as for the use of facilities and public utilities of the units of local self-government.

4.4 National policies on design of grants systems

General Subsidy for Gminas

Each gmina receives a general subsidy from the state budget; this general subsidy consists of three components:

- 1) Basic
- 2) Educational
- 3) Fiscal equalising

Funds received in the form of a subsidy are not allocated to specified public duties (as happens in the case of specific grants). The allocation of funds received in the form of a general subsidy is decided by the gmina council.

Basic Component of a General Subsidy

The amount designated for the basic component of a general subsidy for all gminas is calculated as the sum of the amount equal to at least 1% of the state budget receipts as planned in the Budget Act, and the amount of payments made by gminas with high (above average) tax potential (i.e. gminas where the ratio of basic taxable revenue per one resident exceeds 150% of the corresponding ratio determined for all gminas).

The basic component of a general subsidy is allocated to all gminas, pro rata to the number of residents in individual gminas. It would be rational and useful not to calculate and submit this part of the subvention because of its small size, which has also been decreasing from one year to the next.

A gmina where the ratio of basic taxable revenue per resident is below 85% of the corresponding ratio calculated for all gminas, receives a compensating amount, this being a component of the basic component. The compensating amount is received by gminas with the worst economies and conditions. The purpose of this subsidy is to compensate a gmina with poorer economic development and low own-taxable revenue, bringing it up to the average calculated for all gminas.

In accordance with the present *Act on the Revenues of the Units of Local Self-government*, the basis for the calculation of this compensating amount is the basic taxable revenues of a gmina, i.e. real estate tax, forest tax, vehicle tax, tax card, stamp duty, mineral royalties and share in individual income tax (27.6%), share in corporate income tax (5%) and the compensating component of general subsidy.

A gmina receives the compensating amount in 12 equal monthly installments, by the 15th day of each month.

The compensating amount is calculated on incomplete gmina revenue potential. Data mainly regards tax revenues realised in the first half of the year, which do not correctly reflect the real financial situation of the gmina. It is therefore necessary to broaden the list of revenues included in the base which is used to calculate the compensation amount. The catalogue of revenues should consist of more of the revenues which play an important role in formulating gmina own resources and are more stabile. Apart from this, it would be proper to compute subvention using yearly revenue data.

Educational Component of General Subsidy

The amount of allocation to the educational component of the general subsidy for all units of local self-government (gminas, poviats, voivodships) is set as the overall amount that cannot be less than 12.8% of planned expenditure from the state budget. The total amount of educational subsidy is allocated to individual gminas, poviats and voivodships in accordance with the rules laid down in a regulation issued by the Minister responsible for education, following consultations with the representation of the units of local self-government, with due consideration of the types and categories of schools operated by self-governments and the number of students of such schools.

The rules of allocation of the educational component of the general subsidy to the units of local self-government are currently laid down in a regulation of the Minister of National Education.

Pursuant to that regulation, the educational component of the subsidy is applied for the fulfilment of:

- school duties (e.g., operation of primary schools, secondary schools and special schools); and
- out-of-school duties (e.g., offering holiday facilities, camps, boarding schools).

The educational subsidy should be applied, in particular, towards the financing of current expenditure (including salaries) of schools and facilities operated by self-governments and for subsidising public and private schools and facilities operated by entities that are not units of local self-government.

The educational subsidy is allocated to individual self-governments pursuant to an algorithm (specified in the regulation). The main element of this algorithm is the conversion number of students, i.e. the actual number of students living within the area of a gmina, poviat or voivodship, multiplied (weighted) by the agreed number of students of a given type of school. The general number of conversion students reflects the scope of duties implemented by a relevant unit of local self-government.

The actual and the complementing number of students is taken from reports published by the Central Board of Statistics.

The Minister responsible for public finance provides the units of self-government with the educational component of the general subsidy in monthly instalments by the 25th day of the month.

Fiscal Equalising Component of General Subsidy

The fiscal equalising component of the general subsidy is compensation for the loss of tax receipts that would have existed if not for tax regulations abolishing or reducing certain tax obligations.

The fiscal equalising component of general subsidy may consist of:

1. An amount compensating revenue lost as a result of partial abolition of the vehicle tax; and
2. An amount compensating revenue lost as a result of:
 - Statutory reliefs and remissions (e.g. provided for in the agricultural or forest tax); or

- Reduction of mineral royalties (on the basis of the *Geological and Mining Act*).

The amount of compensation for all gminas is set as at least 10.5% of receipts from excise tax on engine fuels as projected in the Budget Act by the Minister responsible for public finance, following consultations with the representation of the units of local self-government.

The rules and procedure for determining the subsidy are laid down in the *Act on the Revenues of the Units of Local Self-government between 1999-2001*.

The biggest disadvantage of the “vehicle” part of the fiscal equalising subvention is that the amount of money given does not depend on the number of vehicles, density, quality and types of existing roads. In addition to this, gmina councils set ways of allocating the so-called "vehicle" subvention, so it is possible not to spend money from the budget for road maintenance. Thus, it would be more effective to replace this part of compensation subvention with an increase in gmina own revenues. In the case of the second part of compensation subvention, reforming it requires detailed analysis of misuse of tax reliefs, and then the introduction of a new instrument for improving tax collection. It could decrease the amount of money given via budget to gminas.

Reduction and Return of General Subsidy

If it is found, as a result of an inspection, that a report, application or information serving as the basis for granting a subsidy to the gmina self-government, contained any misstatement and the gmina received any component of the general subsidy in excess of the amount due, the Minister responsible for public finance reduces the amount of that component by the relevant amount plus the interest accruing thereon.

In addition, the Minister gives notice to that effect to the regional clearing chamber.

The unauthorised amount of subsidy must then be returned to the state budget or increases the subsidy reserve.

General Subsidy for Poviats

The general subsidy of a poviat consists of the following components:

- 1) Educational;
- 2) Road; and
- 3) Compensating amount.

The allocation of funds received in the form of a general subsidy is decided by the poviat council. It means that the poviat council is free to decide on the detailed directions and way of funding within the amount awarded to it.

Educational Component of General Subsidy – see under gminas.

Road Component of General Subsidy

Individual units of local self-government are responsible for public roads under their jurisdiction.

The amount intended as the road component of the general subsidy for all poviats and voivodships, for the purpose of construction, improvement, maintenance, management and protection of the roads, is set as 60% of the amount determined under the Act on Public Road Financing. 10% of that amount is withheld as a reserve for investment. This reserve is at the disposal of the Minister responsible for public finance,

subject to consultations with the Minister responsible for transportation and the representation of the units of local self-government.

This amount is then allocated to individual poviats, towns with the status of a poviat and voivodships in consideration of such factors as the length and density of roads, road infrastructure, and traffic rate.

The rules and procedure for the allocation of the road subsidy are laid down in a regulation of the Council of Ministers.

The road component of the general subsidy is paid in twelve equal installments, on a monthly basis, to the bank account of a given poviat, town with the status of a poviat or voivodship self-government.

Compensating Component of General Subsidy

The amount allocated to the compensating component of the general subsidy is determined every year, for all poviats, in the Budget Act.

The compensating component of the general subsidy is received (as at 1999, 2000 and 2001) by all poviats and towns with the status of a poviat, excluding the most affluent poviat (town), i.e. where the ratio of basic taxable revenue per resident is less than the corresponding ratio in the poviat with the best economy.

Basic revenues to calculate compensating subvention for poviats and voivodships are their share in PIT and CIT. In this case, the catalogue of revenue being the base for calculation should be broadened. The mechanism of computing the compensation part of the subvention needs to be changed for better – it means better compensation and better elasticity of revenue compensation indexes.

General Subsidy for Voivodship

The general subsidy of a voivodship consists of the following components:

- 1) Educational;
- 2) Road; and
- 3) Compensating amount.

The allocation of funds received in the form of a general subsidy is decided by the voivodship assembly. The general subsidy should be applied to voivodship duties, however, unlike specific grants, whether the subsidy is fully used for its specified purposes is of no legal importance.

The unused portion of the subsidy does not have to be returned to the budget.

Educational Component of General Subsidy - see gminas, above.

Road Component of General Subsidy - see poviats, above.

Compensating Component of General Subsidy

The amount allocated to the compensating component of the general subsidy for all voivodships is determined every year in the Budget Act.

The compensating component of the general subsidy is received (as at 1999, 2000 and 2001) by voivodships where the ratio of basic taxable revenue per resident (i.e. the revenue from income tax sharing) is 30% less than the corresponding ratio in a voivodship with the best economy.

Specific Grants for Gminas

For administrative duties delegated to gminas by the central government

Administrative duties delegated to gminas by the central government follow from acts regulating specified areas of social and economic activities and entail, among other things, matters of social welfare, health protection, housing management, administration, physical culture and sport.

Public duties delegated by virtue of statute are financed from funds classified as specific grants. The detailed rules and dates of remittance of such funds are laid down in the statutes whereby the obligation to perform special duties is imposed on gminas.

Gminas performing special administrative duties delegated by the central government are subject to supervision by the bodies of government administration.

Gminas performing delegated duties in that area receive grants from the state budget. These grants are remitted by voivods in a manner providing for the full and timely completion of delegated duties. In case of failure regarding the amount or manner of remitting grants, the gmina has the right to enforce payments due to it in court.

For financing gmina investments pursued as own duties

The rules and criteria of partial financing of investment projects are laid down by the voivod, following consultations with the voivodship self-government. The total amount of grants given for investment purposes cannot exceed 50% of the cost estimate of the investment project concerned.

Gminas that receive grants are responsible for filing with the voivod (within 30 days after the end of budget year) a statement containing the following information:

- a list of completed investment projects that were partially financed with grants;
- cost estimates of such investment projects; and
- amounts intended for project financing.

Specific grants for partial financing of investment projects, that were not used during a given budget year, must be returned to the state budget.

For financing of duties implemented on the basis of agreements

In addition to administrative duties delegated by the central government under statute, there can be administrative duties delegated to gmina by the central government and fulfilled on the basis of agreements made with the bodies of government administration. Gminas performing duties under such agreements receive grants in amounts resulting from the agreements made by the parties.

Such agreements specify the detailed rules and procedure for the remittance of funds.

For financing or partial financing of own duties

Specific grants can be disbursed from the state budget for the financing or partial financing of gmina own duties in the following areas:

- social welfare;

- disbursement of housing allowances; and
- other duties.

These grants are remitted by voivods. The total amount of grants for partial financing of own duties is laid down in *the Budget Act*.

Specific Grants for Poviats

For partial financing of investments implemented by poviats as their own duties

The rules and criteria for the allocation of funds for the partial financing of investment projects are laid down by the voivod, following consultations with the voivodship self-government. The total amount of grants given for investment purposes cannot exceed 50% of the cost estimate of the investment project concerned. The proportion of own financing reflects the commitment to the project of the applying entity.

Poviats that receive grants are responsible for filing a statement with the voivod (within 30 days of the end of the budget year) containing the following information:

- list of completed investment projects that were partially financed with grants;
- cost estimates of such investment projects; and
- amounts intended for project financing.

Specific grants for the partial financing of investment projects, that were not used during a given budget year, must be returned to the state budget.

For financing of duties implemented on the basis of agreements

Any unit of local self-government that fulfils duties delegated by other units of local self-government under an agreement, shall receive specific grants in amounts resulting from the agreements made.

Such agreements specify the detailed rules and procedures for the remittance of funds.

Specific Grants for Voivodships

For subsidising long-term voivodship development programmes

Pursuant to the provisions of the Act on Revenue of the Units of Local Self-government, the voivodship self-government may receive specific grants from the state budget. The rules and procedures for awarding such grants are laid down in a regulation issued by the Council of Ministers.

For partial financing of investments implemented by the voivodship self-government

The rules and criteria for the allocation of funds for the partial financing of investment projects are laid down by the voivod, following consultations with the voivodship self-government. The total amount of grants given for investment purposes cannot exceed 50% of the cost estimate of the investment project concerned.

Voivodship self-governments that receive grants are responsible for filing a statement with the voivod (within 30 days of the end of the budget year) containing the following information:

- a list of completed investment projects that were partially financed with grants;
- cost estimates of such investment projects; and
- amounts intended for project financing.

Specific grants for the partial financing of investment projects, that were not used during a given budget year, must be returned to the state budget.

For administrative duties delegated by the central government

Pursuant to the provisions of the Act on Revenue of the Units of Local Self-government, a voivodship performing delegated duties in that area receives grants from the state budget. These grants are remitted by voivods in the manner providing for the full and timely completion of delegated duties. In case of failure regarding the amount or manner of remitting grants, it has the right to enforce payments due to it, in court.

For financing or partial financing of own duties

Specific grants can be disbursed from the state budget for the financing or partial financing of gmina own duties in the following areas:

- social welfare;
- higher education; and
- other duties.

These grants are remitted by voivods in a manner providing for the full and timely completion of duties. In addition, voivodship self-governments may receive funds (grants) for the implementation of duties resulting from the Act on Employment and Prevention of Unemployment.

Generally, it is necessary to affirm that excessive system subsidise of units of local governments are a denial of the self-government idea and do not permit making a decision in an independent and flexible way. The local governments are dependent on government decisions on granting subsidies and their amounts. It is very important in the case of grants for investment, where a delay in submitting the required money has a negative impact on the effective use of financial resources, completing on time, etc. With respect to these problems, grants should gradually be replaced by increasing own revenues. A parallel decision is required to reduce the quantity of commissioned tasks by state administration and, at the same time, increase own tasks together with accurate financial resources to realise them properly.

4.5 National control on borrowing

The constitutional guarantee of self-governance of the units of local self-government and extensive self-governance attributes laid down in system acts (about gmina, powiat and voivodship self-governments) form the basis of the full exercise by the units of local self-government, of their rights as a civil law entity. It translates into the consideration of the capacity to incur financial liabilities by the units of local self-government.

The legal regulation on public debt by the self-government is included in: the Public Finances Act, the provisions of the Banking Act, civil regulations, system acts, the Act on Regional Clearing Chambers, and others.

Debts of the units of local self-government cover liabilities under:

1. Issued securities entailing money claims (i.e. bonds);
2. Contracted loans and bank loans;
3. Deposits accepted; and
4. Matured liabilities:
 - of budget units of a self-government; and
 - arising under sureties and guarantees provided.

The legislator imposed different restrictions in the area of borrowing, bond issue and provision of guarantees. Under Art. 113 of the Public Finances Act, the total amount repayable during a relevant budget year (liabilities incurred under loans, bank loans and conditional liabilities under guarantees extended by local authorities, plus interest and discounts and under maturing securities) cannot exceed 15% of the revenue projection for a given budget year of that local authority (if the relation of state public debt to the gross domestic product goes up beyond the relevant limit, the said 15% ratio is reduced to 12%). Also, the total amount of debts at the end of the budget year cannot be more than 60% of the aggregate revenue of that unit during a relevant budget year.

Table 4.2 Indebtedness of municipalities: local net debt, 1997, 1998 and 1999 (in millions of zlotys)

	1997	1998	1999
General government deficit/ surplus	-6759	-6522	-5857
General government gross debt	N.A.	N.A.	272588
Local government deficit/ surplus	-864	-1187	-1331
Local government gross debt	N.A.	N.A.	6187
Local government deposits and securities			777
Local government net debt			5410

N.A. - not available

The draft budget resolution is prepared by the governing board of a unit of local self-government and, prior to its adoption by the constitutive organ, it is obligatorily submitted to the regional clearing chamber for review and comments; the chamber is a government authority for supervision and control of local financial management. Its opinion covers, i.a., the amount of planned debt. If it exceeds the statutory figure, the regional clearing chamber rejects the draft resolution. If the draft resolution is rejected as a whole or any part thereof, the governing board must adjust it accordingly. Such control powers are not vested in the central banks as the budgets of the units of local self-government are served by commercial banks selected by these units (through tendering), while the central bank only serves the state budget.

The aforesaid law also provides that the units of local self-government may solely take loans from domestic banks which, however, does not mean that such banks must be Polish banks as they can also be foreign banks with a registered office in Poland. All bank loans must be denominated in the Polish currency. Exceptions to that rule are laid down in the Council of Ministers' Regulation of 28th September, 1999, regarding the cases that are not subject to restrictions on the incurring of certain financial liabilities by the units of local self-government and other public finance sector entities, excluding the State Treasury. Under that regulation, loans and bank loans may be denominated in foreign currencies, i.a., when they come from international financial institutions and Poland is a member of such an institution or signed a co-operation agreement with them, from governments or government agencies or foreign states on the

basis of agreements made by the Council of Ministers with the relevant government or government agency, etc.

Banks and other financial institutions may stipulate as a condition for the extension of a loan or bank loan, that the unit of local self-government submit an opinion issued by the regional clearing chamber regarding its ability to repay the loan or bank loan in question. The regional clearing chamber, being an entity established in order to control the financial management of the units of local self-government, controls, amongst other things, compliance with the rules laid down in the Public Finances Act and regarding debts incurred by these units.

The self-government, as the debtor, is liable to creditors with all its property (both financial and tangible assets).

The loan security may take different forms allowed under the civil, bank and bill of exchange regulations. It may be, for example, a mortgage, lien, aval, authorisation to administer the bank account of the self-government (up to the amount of the installment to be repaid).

However, not every asset owned by the units of local self-government may serve as loan security. The majority of them cannot be discussed in that respect as their market value would be difficult to establish (e.g., roads, bridges) or a given unit does not have the absolute right to handle it (e.g., school buildings, historical monuments).

The units of local self-government may borrow at certain banks and financial institutions on preferential terms. Hence, as regards the implementation of own tasks in the area of municipal construction for residential purposes, gminas may apply for preferential loans at the Bank Gospodarstwa Krajowego. Bank Ochrony Srodowiska also offers preferential loans on the fulfilment of environmental duties; and the environmental protection and water management funds offer loans for such purposes. The units of local self-government may receive loans and credits, on special conditions, from certain international financial institutions, pursuant to the rules laid down in the aforesaid regulation of the Finance Minister.

Table 4.2.1 Loans and bank loans taken by gminas between 1996-1998 (in millions of zlotys)

Year	Bank loans		Loans		Total	
	Plan	Final	Plan	Final	Plan	Final
1996	700.1	418.8	468.7	302.7	1 168.8	721.5
1997	1 074.6	654.2	560.1	341.9	1 634.7	996.2
1998	1 399.8	771.3	849.2	538.0	2 249.0	1 309.3

Table 4.2.2 Loans and bank loans taken out by units of local self-government in 1999 (in millions of zlotys)

Year 1999	Loans and bank loans
1. Gminas	3 241.2
2. Poviats	35.4
3. Town poviats	1 786.8
4. Voivodship	16.7
TOTAL	5 079.9

The Table “Loans and bank loans taken out by gminas between 1996-1998” contains data regarding loans and bank loans incurred, as shown in quarterly reports on the execution of gmina budgets. In the years 1996-1998, gminas used to show such liabilities, however only when the execution of the budget for a given year was closed with a shortage and funds from loans, and bank loans were applied to cover excess expenditure. On the other hand, the Table “Loans and bank loans taken by units of local self-government in 1999” presents data showing the full amounts of liabilities of the units of local self-government.

Pursuant to Article 48 of the Public Finances Act, the units of local self-government may also incur loans and bank loans and issue securities in order to cover the in-year shortage in the budget of the units of local self-government. Such debts are repayable or redeemable within the same year as the year of incurring or issuing them. This is due to the irregular inflow of revenue from taxes and other revenue to the budget accounts of the units of local self-government, and the necessity of incurring current expenditure on a regular uninterrupted basis.

The units of local self-government may also apply to the State Treasury for its financial surety or guarantee for the loan. The rules of extending financial sureties and guarantees and application forms are laid down in the provisions of the Council of Ministers’ Regulation of 5th August, 1997 regarding the detailed terms and procedure for the extension of financial sureties and guarantees by the State Treasury, and fees payable for such sureties and guarantees, and also in the Finance Minister’s Communication No. 29/DP/97 of 13th October, 1997, regarding the forms of applications for extension or financial surety or guarantee of the State Treasury. Such financial sureties and guarantees may be extended up to 60% of the drawn amount of

a loan secured with such a surety or guarantee, with up to 60% of interest payable on that amount. The Council of Ministers may offer a higher surety in the case of a project of special importance for the national economy (pursuant to Article 5 of the Act on Financial Sureties and Guarantees Extended by the State Treasury and Certain Legal Entities of 8th May, 1997).

As regards the government's support in financing deficit of the units of local self-government, it should be noted that these entities, being independent entities, with a legal identity and acting in their own name and under their own responsibility, must cover any budget deficit themselves. The Public Finances Act enumerates the measures that may be applied towards covering such a deficit. These are laid down in Article 112 of the said Act. On the other hand, in case of temporary financial difficulties, loans may be extended from the state budget in the course of rehabilitation proceedings. The conditions of granting such loans (interest rates, repayment dates) are laid down in the loan agreement (Article 65 of the Public Finances Act). All the conditions of these loans are considered individually for each municipality.

However, in cases of extreme financial difficulty threatening the proper fulfilment of duties, in the event of prolonged lack of effectiveness in the performance of public duties, with no hope of prompt improvement, or violation of the Constitution, or other acts, the board of commissioners may be appointed for the gmina's territory.

4.6 Local discretion – expenditure

The operation of the units of local self-government as separate entities under public law is set forth in the Polish Constitution: "Local self-government shall perform public duties not reserved by the Constitution or statutes for the bodies of other public authorities."

The assignment of responsibilities to different local authorities is a complex issue, however from the economic point of view, specific duties should be fulfilled by the local authority that is able to fulfil them in an effective way. In general, the responsibilities of the units of local self-government may be divided into duties being their direct responsibility, and responsibilities delegated by the central government administration.

Duties are delegated to gminas by the central government administration under a number of statutes regulating various areas of public activity; they may also be implemented on the basis of agreements made between gminas and a body of the central government administration. Such duties are financed from funds transferred to gminas especially for that purpose by the relevant body of central government administration. The most frequent reason for the delegation of tasks to gminas by the central government administration is the fact that gminas are scattered throughout the country and hence close to situations subject to regulation; for that reason, the legislator recommends that specific responsibilities and their direct financing should be effected by these very units of self-government.

The aforementioned division of gmina duties into own and delegated tasks is not fixed and is subject to continuous evolution against the bottom line of the guidelines of social, economic and administrative policy. The assignment of specific duties to different bodies is made under statutes that are subject to alteration as new programmes and implementation ideas arise.

The crucial difference between own duties and delegated duties can be narrowed down to two criteria:

- 1) manner of financing such duties; and
- 2) supervision over their fulfilment.

Funds allocated to the performance of own duties come from own revenues of gminas, i.e. from taxes, charges, receipts from assets and the general subsidy. On the other hand, delegated duties are financed

from specific grants transferred by the government administration. The difference in supervision over the fulfilment of own and delegated duties refers to its criteria. In the case of own duties, the supervisory body controls whether their performance is lawful (legality criterion) and when reviewing delegated tasks the supervisory body relies on the criteria of advisability, reliability and economy.

The duties of a gmina

The duties of a gmina are specified in the Act on Local Self-government (Article 6) providing that a gmina performs all public tasks of local significance that have not been reserved by law for other entities.

The following articles of the aforesaid Act, namely Article 7 provides that a gmina's own tasks focus on meeting the collective needs of the community. Its own task include, without limitation:

- 1) land management and planning, zoning and environmental protection;
- 2) gmina roads, streets, bridges, squares and organisation of road traffic;
- 3) water mains, sewage systems, municipal sewage disposal and treatment, maintenance of cleanliness and order as well as landfills and solid waste disposal;
- 4) local public transport;
- 5) health care services;
- 6) social welfare, including care centers and institutions;
- 7) municipal housing construction;
- 8) education, including primary schools, kindergartens and other educational institutions;
- 9) culture, including gmina libraries and other institutions promoting culture;
- 10) sport, including recreation areas and sports facilities;
- 11) public markets and fairs;
- 12) gmina greenery and tree planting;
- 13) gmina cemeteries;
- 14) public order and fire protection;
- 15) maintenance of gmina buildings and public facilities, as well as administrative buildings; and
- 16) ensuring social, medical and legal assistance to pregnant women.

A similar list of public duties is set out in the Act on Poviats Self-government. However, poviat duties are of supra-gmina character. On the other hand, the duties relating to a voivodship should be fulfilled by the voivodship self-government as provided for in the Act on Voivodship Self-government. The voivodship self-government is also supposed to pursue a voivodship development policy comprising:

- 1) creation of conditions for business development, including creation of the labour market;
- 2) maintenance and development of the social and technical infrastructure of voivodship importance;
- 3) raising and combining public and private funds for the implementation of public utility duties;
- 4) supporting and taking measures with the aim of improving the education of citizens;
- 5) rational utilisation of natural resources and sustainable development of the environment;
- 6) supporting the development of science and co-operation between the realm of science and economy, promoting technological progress and innovation;

- 7) supporting the development of culture and the protection and rational use of cultural assets; and
- 8) promoting the advantages and development opportunities in the voivodship.

The own duties of gmina, powiat and voivodship are only outlined in the constitutive acts (on gmina, powiat and voivodship self-government). Their description and references to the relevant authority to fulfil such duties are contained in special acts. Specific acts (e.g. Act on the System of Education, Act on Real Estate Management, Act on Social Assistance, Act on Public Roads, Act on Prevention of Unemployment, and many others) specify in detail the duties assigned to different units of local government. These acts also specify which duties are assigned to the state (government administration) or other entities. Therefore, special legislation imposes obligations to fulfil duties on the relevant entities.

The unit of local self-government performs duties, own duties in particular, in its own capacity and at its own discretion. It enjoys considerable freedom in the area of arrangement of duties and spending. It may use various forms of financing individual duties, for example set different rates for municipal services and vary the extent of subsidising the activities of various self-government entities with respect to the legal status and organisation of the entity performing the respective duties. In the area of investment duties, the unit of local self-government also enjoys considerable freedom. It can choose the investment directions in the area of own duties. This choice should be consistent with the rules ensuing from statutes, however, it is, within the framework of these statutes, the choice of the bodies of the units of local self-government.

Public expenditure specified in the self-government's budget resolution applying to any single year cannot be exceeded as it is capped. In addition, they may be exclusively spent on purposes and in amounts laid down in the budget resolution of the unit of self-government and in the financial plan of the unit of self-government's public finance sector (budget unit, budget establishment, other units). Funds are spent within the limits as capped in the financial plan of that unit, in accordance with the planned purpose, purposefully and in view of savings. Certain expenditure (procurement of goods and services by the units of public finance sector) must be made in accordance with the procedures set out in the Public Procurement Act.

The aforesaid law regulates the manner of making certain expenditures on tangible assets and investment purposes. It imposes an obligation on the units spending public finance to follow a specific procedure before entering into agreement with a contractor or supplier if public funds are to be spent in the performance of such an agreement. The Act ensures that the spending of public funds is reasonable, effective and based on clear criteria. The statutory regulations are further supposed to ensure equal treatment of all business entities interested in the fulfilment of public procurement, fair competition among suppliers and contractors tendering for public procurement, and selection of the best offer. The Act is also intended to prevent cases of corruption associated with the award of public procurement.

The best offer should be understood as a proposal of the lowest price with the same quality of procurement deliverable, or a proposal providing for the most favourable balance of price, operating costs, time of completion or delivery, and other criteria as described in the terms of reference. The regulations contained in that law apply to public procurement awarded by:

1. State budget units and support services created by the state budgetary units;
2. State earmarked funds;
3. Units of local self-government and self-government units of organisation;
4. Co-operatives, foundations and associations – to the extent public funds are utilised by them;
5. State agencies;
6. Units of public radio and television; and
7. Independent public health care institutions and organisational units of health insurance.

Education

Education duties are one of the most important tasks fulfilled by the units of local self-government.

The own tasks of gminas in that area comprise the establishment and operation of public kindergartens, including kindergartens with integration classes and special kindergartens, primary and secondary schools, also with integration classes. The foregoing constitute mandatory own duties.

On the other hand, poviats are responsible for the establishment and operation of public special primary and secondary schools, high schools, also with integration classes, art schools, sports schools and sports championship schools, save for schools and institutions of regional importance.

The establishment and operation of public educational institutions and teacher training colleges, pedagogic libraries as well as regional schools and institutions are the own tasks assigned to the voivodship self-government. The list of regional schools and institutions that should be operated by the voivodship self-government, is made by the Council of Ministers with due consideration for the nationwide or suprapoviat scope of their operation.

The body operating a school or institution assumes responsibility for its activity. These responsibilities include, without limitation,:

1. Provision of conditions for the existence of a school or institution, including the safe and healthy conditions of study, upbringing and care;
2. Repairs of school facilities and capital investments in the area;
3. Ensuring administrative, financial and organisational services for a school or institution; and
4. Equipping a school or institution with teaching aids and equipment necessary for covering in full the programmes of study, education and other tasks laid down in the by-acts.

The obligatory own duty of a gmina is, among other things, the annual preparation of kindergarten children for school. The charges for public kindergartens operated by gminas are set by the gmina council, and, in the case of other public kindergartens, by the bodies responsible for these kindergartens.

If the distance from a child's home to school, within the jurisdiction in which that child lives, is longer than the statutory distance, the gmina is responsible for the provision of free transport and supervision during transport, or reimbursement of fares when public transport is used.

The gmina is also responsible for the provision of free transport and the supervision of disabled children who attend public primary and secondary schools.

The outline of the network of public primary and secondary schools, and the limits of their jurisdiction, are determined by the gmina council. On the other hand, the poviat council determines the outline of the network of public high schools.

Funds necessary for the implementation of educational duties, including teachers' salaries and the operating expenses of schools and institutions, are guaranteed in the revenues of the units of local self-government. They are transferred from the state budget in the form of subsidies and grants.

Non-public (private) kindergartens, primary and secondary schools, excluding special primary schools and special secondary schools as well as art schools, are subsidised by the gmina budget.

On the other hand, non-public (private) special primary and secondary schools, art schools and high schools with the same powers as public schools, are subsidised by the poviát budget.

Grants to private schools and kindergartens referred to above, can be awarded in an amount not less than 50% of current expenditure as determined in the budget of the gmina or poviát, to be incurred by public kindergartens or schools of the same type and category, when calculated per pupil.

Housing and community amenities

Gminas are responsible, as their own duty, for meeting the housing needs of the members of the self-governing community. Gminas, who lease out municipal buildings and premises and, at the same time, manage the housing stocks, spend funds on maintenance and repair to buildings and premises. Such expenses are partially financed from rents collected from tenants and partially from budget grants.

The tenant pays the rent at the rate agreed by the parties in the lease agreement. The rent rates are set by the gmina council. These rates should vary in consideration of factors that upgrade or downgrade the usable value of leased residential premises. The following factors are taken into account by the gmina council when setting the rent rates:

- Location of a building (city centre, suburbs);
- Location of the premises in the building (level);
- Technical facilities and installation in the building and premises and their condition; and
- Overall technical condition of the building.

The landlord (gmina) is responsible for assuring the efficient operation of the existing technical installations in the building, such as lighting, heating, hot and cold water, lifts, antenna, and other equipment constituting the fittings of the building or premises. The landlord is also responsible for the execution of repairs in the building, and the repair or replacement of elements of technical installations.

The management of gmina housing stocks is usually delegated to a municipal unit of organisation that is especially established for that purpose; it may be in the form of a budget establishment (e.g. the Housing Management). Such an establishment carries out business activity connected with the fulfilment of the gmina's own duties to meet housing needs, generates own revenue (i.e. the aforesaid rents and other revenue) and may be subsidised from the gmina's budget.

Social security services

Social security services are organised by central and local administration in co-operation with social organisations, the Catholic Church, foundations, and associations.

The social security services are fulfilled by all three levels of subnational government, but the most important part of tasks belongs to the lowest tier of subnational government - gmina.

All the social security tasks of gminas are divided into three groups:

- Own tasks
- Obligatory own tasks,
- Tasks delegated by central government.

The first group of tasks, own tasks, embraces:

- Management of social security centres,

- Giving and paying of relief,
- Giving relief in kind for economic independence.

The next group, obligatory own tasks, includes:

- Management of centres for homeless people,
- Management of municipal community centres for children,
- Providing protective services,
- Organising funerals for homeless people.

Tasks delegated to gminas by central government embrace:

- Giving and paying of relief in case of disaster,
- Giving and paying of permanent relief and social pensions,
- All tasks arising from central government programmes of social security services, which are established to protect people's living standards.

Recruitment and payment of personnel

Another important group of self-government's expenditure are staff costs, mainly the salaries of self-government employees. The legal status of people employed by the units of local self-government is specified in the Act on Self-government Servants.

The employment of self-government servants is based on:

1. Election, for example: voivodship marshal, starosta (head of town powiat), wójt (head of rural powiat), mayor, city president and their deputies;
2. Nomination;
3. Appointment, for example: gmina's secretary, powiat's secretary, gmina's treasurer, powiat's treasurer, voivodship's treasurer; and
4. Employment contract (all other self-government servants).

Self-government servants are entitled to receive remuneration that reflects the position occupied and professional qualifications held by them. The rules of remuneration and of qualification requirements relating to self-government servants are specified by the Council of Ministers in a regulation (on the basis of the Act on Self-government Servants). The Council of Ministers' regulation regarding the remuneration of self-government servants sets out, i.a., the table of monthly rates of base pay, the table of position-related increment rates, and the classification and qualification requirements.

4.7 General budget co-operation with central government

Macroeconomic control of local governments - Budget co-operation (expenditure) between central and subnational levels.

While analysing the influence of the state budget's financial policy on local budgets, it must be said that, in general, the central authorities do not have any influence on the level of both local revenue or expenditure. Even the amount of revenue transferred from the state budget, i.e. subsidies and specific grants, depends on objective criteria laid down in the Acts and, hence, the central authorities are unable to interfere in the amount of this revenue. Neither are these authorities able to exercise influence on the amounts spent from local budgets and the sole supervisory criteria is the correctness of implementation of duties assigned to individual levels of local self-government.

On the other hand, however, the borrowing powers of the units of local self-government are limited. The total amount repayable during a relevant budget year (liabilities incurred under loans, bank loans and conditional liabilities under guarantees extended by local authorities, plus interest and discounts and under maturing securities) cannot exceed 15% of revenue projection for a given budget year of that local authority, and the total amount of debts at the end of budget year cannot be more than 60% of the aggregate revenue of that unit during a relevant budget year.

The draft budget resolution is prepared by the governing board of a given unit of local self-government and, prior to its adoption by the constitutive body, it is obligatorily submitted to the regional clearing chamber for its review and comments; the chamber is a government authority for supervision and control of local financial management. Its opinion covers, i.a., the amount of planned debt.

Main characteristics of the instruments for the central control of expenditure

The budget resolution of a unit of local self-government specifies, i.a., the amount of expenditure from the local budget, sub-divided into headings and chapters of expenditure classification, including:

- Current expenditure, including: salaries and associated payments, grants, servicing of debts incurred by an unit of local self-government, amounts payable under sureties and guarantees extended by an unit of local self-government; and
- Property expenditure.

The budget resolution of a unit of local self-government may specify, in addition to limits of expenditure during a budget year, limits of expenditure on multi-annual investment programmes listed in a schedule appended to the budget resolution. Subsequent budget resolutions should specify expenditure on pending programmes, in amounts enabling their timely completion.

Institutions and procedures for expenditure control.

The constitutive body, i.e. the council of a given level of government, is the basic control body in matters of execution of the budget of a unit of local self-government. The external control powers are vested with the regional clearing chamber which also fulfils information and training functions, providing the council with professional opinions on the draft budget, information submitted by the gmina council and concerning the implementation and execution of the budget, and also findings of comprehensive inspections of the financial management of a local government. Other institutions authorised to control the operations of local authorities, municipal legal entities and other municipal organisations include: the Supreme Audit Chamber, the Prime Minister and voivods.

Control exercised by the gmina council (powiat council, voivodship assembly)

The control over the execution of the budget that is exercised by the council should apply to the whole process of revenue generation and expenditure, with particular emphasis on the conformity between the operations of the governing board and the council's decision contained in the Budget Act and budget-related resolutions. Considering the limited powers of the council in the area of detailed verification of financial documents accompanying any reports on the execution of the budget, special powers are vested with the audit commission of the local council. The audit commission is a council representative for control over operations of the governing board and units of local government. The main responsibilities of the audit commission comprise:

- Delivery of an opinion about the execution of the budget;
- Submission of a motion to the council for discharging, or not, the governing board from fulfilment of its duties (an opinion of the regional clearing chamber must be sought with respect to this motion); and
- Control over matters indicated by the council of a given unit of local self-government.

The rules and proceedings of the audit commission are laid down in the by-acts of a given unit of local self-government.

Control exercised by the regional clearing chamber

These chambers are state supervisory and controlling authorities appointed, amongst other things, to control the financial management and public procurement of/by the units of local self-government and other municipal legal entities.

At the same time, the chambers supervise the municipal operations in budget-related matters.

The chambers control the financial management of the self-government and other municipal legal persons in terms of legal compliance and conformity of documents with the facts.

The regional clearing chamber must carry out a full audit of a gmina's financial management at least once in four years and may carry inspections if requested by the gmina concerned.

In addition, the regional clearing chamber takes many acts and activities of a limited audit nature, covering a specified fragment of the financial management of a local government. The responsibilities of the chamber in this area comprise, i.a.,:

- Delivery of an opinion on the draft budget submitted by the governing board;
- Delivery of opinions on information concerning the execution of the budget in the first half of the year and public procurement awarded over that period, as provided by the governing board; and
- Delivery of opinions on the governing board's reports on the execution of the budget by the units of local self-government and separate reports regarding the execution of financial plans for delegated duties.

The chamber's opinions are not binding, e.g. a negative opinion from the chamber on the draft budget submitted to it does not suspend the budget adoption procedure, likewise a negative opinion from the chamber on the execution of the budget solely obliges the governing board to give it to the council, together with a reply and explanations.

The control over the execution of own duties by the units is exercised in terms of legal compliance, and as regards delegated duties, that were originally assigned to the central administration, in additional terms of advisability, integrity and economy.

If the budget is not adopted by the unit of local government by 31st March of the budget year, the basis for financial management in the area of own duties is the budget created by the regional clearing chamber. Regional clearing chambers also investigate the financial standing when the budget is being executed, and may nullify the resolution as a result of control procedure and irregularities revealed there, or, in case of gross violation of the Act, they only declare the resolution was adopted in violation of the Act.

Supreme Audit Chamber

The Supreme Audit Chamber (NIK) is the supreme body of state audit and is subordinated to the Lower House of the Polish Parliament (Sejm) and acts on a collegial basis.

NIK principally audits the activities of the bodies of government administration, the National Bank of Poland and other organisational units of the state. NIK may also audit the activity of the bodies of local self-government, municipal legal entities and other municipal organisational units, however this is its right and not an obligation. In the legal framework, it may carry out audits in terms of “legality” (legal compliance), economic efficiency and integrity, also with respect to the fulfilment of own duties of the local self-government.

On the other hand, the voivod may, under the audit powers vested in it, determine the nullity of resolutions of the bodies of local self-government units that were submitted to it, if such resolutions are found to be illegal, or suspend the enforcement of any resolution and refer it back to the relevant body of the units of local self-government for re-consideration.

A summary of recent reforms of central-local relations

The reform of the state system was launched in 1999; its main objective was to delegate the power to make decisions in local affairs to local authorities elected by the communities that would be directly affected by such decisions. Self-governments at the poviats and voivodship levels were created and their financial management was regulated under the Act on Revenues of the Units of Local Self-government between 1999-2001 (this Act applies to gminas, too). The aforesaid Act specified the sources of revenues of the units of local self-government, the rules of calculation and the rules and manner of transferring general subsidies as well as the rules of awarding specific grants.

This Act:

1. made no material changes in the system of gmina financing;
2. guaranteed the mutual financial independence of different levels of self-government; and
3. provided all units of local self-government with a share of own revenues in the overall structure of the revenues of such units.

The changes introduced under the Act in the area of gmina revenues, stimulated the improvement and added flexibility to the system of funding these units.

These changes consisted in:

1. The introduction of the possibility of subsidising own duties, both current and investment tasks, of gminas from the state budget and from budgets of other units of self-government, i.e. other gminas, poviats and self-governing voivodships;
2. Providing for the option to delegate to gminas, under agreements, duties and appropriate funding, not only the duties of government administration but also duties of other units of self-government;
3. Enabling the provision of specific grants from the state budget for the removal of direct threats to safety and public order, in particular for remedying the after-effects of natural disasters; and

4. The establishment of the educational component of the general subsidy.

The necessity of establishing the educational component within the general subsidy was determined by the need for an objective allocation of funds to educational tasks among respective levels of the units of local self-government.

Also, under that Act, changes were made in the terminology so that it met the requirements of the Polish Constitution.

In addition, the aforesaid Act provided the self-government members of the Joint Commission of the Central Government and the Local Self-government with the right to deliver opinions on all legal acts and proposals relating to the distribution of general subsidy reserves that are of material importance to the revenues and expenditures of self-governments.

Central mandates on economic management

Public revenues and expenditure and the revenues of organisational units of the public finances sector are classified by:

- Chapters and headings where the type of activity is specified; and
- Paragraphs specifying the category of income, revenue or expenditure.

The detailed classification of income and expenditure and the revenues and spending is laid down by the Finance Minister, in a regulation.

The basic normative act referring to budget accounting (including budget accounting of the units of local self-government) is the Public Finances Act. This act lays down certain general rules that are further developed in secondary legislation (Finance Minister's regulations).

The Finance Minister specifies:

- A uniform chart of accounts for the units of public finances sector;
- Detailed accounting principles and charts of accounts for the state budget and the budgets of the units of local self-government as well as budgetary units; and
- Principles of accounting and charts of accounts for tax authorities for the collection and settlement of taxes, charges and other non-tax budget receivables.

The aforesaid charts of accounts should reflect the principles set out in the Accounting Act and international standards, however, providing that:

1. Revenues and expenditures be recorded on the day of their payment, irrespective of the annual budget they refer to;
2. All stages of settlement preceding the payment of revenues and expenditures also be recorded;
3. Interest on late payments will accrue and be recorded at the end of each quarter, at the latest;
4. Revaluation of assets and liabilities denominated in foreign currencies will be made at then current rates of exchange, at the end of each quarter, at the latest;
5. Debts will be valued at issue value plus amounts of interest accrued thereon; and
6. Accounts receivable and accounts payable denominated in foreign currencies will be valued at then current rates of exchange.

Gminas, poviats, voivodships and their conferences, as well as central government, gmina, poviat and voivodship budgetary units and earmarked funds, are also governed by the Accounting Act. This Act, however, does not apply to the State Treasury and the National Bank of Poland.

However, the applicability of the regulations contained in the Accounting Act to self-government budgets is limited. These regulations mainly refer to the technicalities and calculation (formal) format of the Accounting Act. The principles of budget accounting differ. In the sector of public finances, planned revenues and expenditure of the budget are compared to the actual revenues and expenditure. On the other hand, receipts and their costs, the financial result, balance sheet and other elements of commercial accounting cannot be directly applied to the budget system. The spheres of corporate finances and public finances are different. The Accounting Act principally applies to business entities.

Pursuant to Article 15 of the Public Finances Act, the public sector units prepare reports on the execution of processes that make public finances, referred to as budget reports. The Finance Minister specifies, following consultations with the President of the Central Board of Statistics, in a regulation:

1. Types, forms, dates and rules for making budget reports regarding the execution of budgets of the units of local self-government, and the fulfilment of financial plans of units, and earmarked funds;
2. Types and rules of making reports regarding public debts of the state and financial sureties and guarantees of the public finances sector;
3. Rules of making summary consolidated budget reports of the units of local self-government; and
4. Units obligated to make different types of financial statements, including budget reports, that could be governed by special accounting principles, times for completion of such reports and their recipients.

The summary annual report regarding the execution of budgets of the units of local self-government is made by the President of the Central Board of Statistics.

The units of local self-government are responsible for the preparation and submission of:

1. quarterly budget reports on:
 - budget revenues;
 - budget expenditure;
 - surplus/ deficit of the units of local self-government;
 - status of liabilities, financial sureties and guarantees; and
2. semi-annual and annual reports on the generation of basic revenue from taxes.

The responsibility for preparation and submission of quarterly budget reports is vested with the governing boards of:

- gminas;
- towns with the status of a poviat;
- poviats; and
- self-governing voivodships.

On the other hand, the responsibility for the preparation and submission of semi-annual and annual reports on the generation of basic revenue from taxes is vested with the governing boards of:

- gminas; and

- towns with the status of a poviat.

The governing board of a unit of local self-government submits summary reports, one hard copy and one electronic copy, to the clearing chamber of the applicable jurisdiction. Then, data derived from these reports are furnished by the regional clearing chamber to the Finance Ministry.

The governing boards of the units of local self-government prepare reports on the following budget revenues from:

1. taxes, charges and other non-tax budget duties collected by the units of local self-government;
2. share of the units of local self-government in individual income tax receipts as transferred from the central current account of the state budget to the budget of the units of local self-government;
3. specific grants and general subsidies received from the state budget; and
4. specific grants from earmarked funds and specific grants for duties fulfilled by the units of local self-government under an agreement made between the units of local self-government.

The report relating to the taxes, charges and other non-tax budget duties collected by the units of local self-government, is made to reflect:

1. information on revenue projections, as planned, following amendments, if any; effects of advantages taken of special cases of expiration of tax liabilities;
2. receipts less returns made;
3. amounts constituting the difference between revenues that a gmina could have got by applying ceiling tax rates and revenues that it actually raised through the application of lower rates adopted by the gmina council; and
4. amounts reflecting the effects of reliefs, remissions, concessions and waivers of taxes and charges constituting the revenue of the gmina budget (net of statutory reliefs and remissions), as well as the financial consequences of reliefs and remissions relating to taxes and charges introduced by virtue of gmina council resolutions issued in the exercise of its statutory powers.

Reports on budget expenditure are made on the basis of data coming from special books to current accounts, in due consideration of the expenditure planned and made.